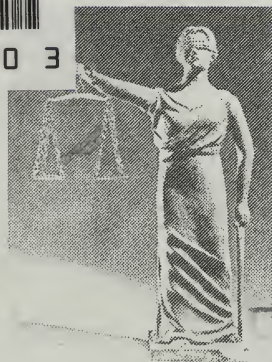


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A Guide to Victim Rights
and Services in Massachusetts

Massachusetts Office for Victim Assistance
Victim and Witness Assistance Board



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Aftermath
of
Crime



A Guide to Victim Rights
and Services in Massachusetts

*M*assachusetts Office for Victim Assistance
Victim and Witness Assistance Board

In the Aftermath of Crime

A Guide to Victim Rights and Services in Massachusetts

The Commonwealth of Massachusetts Victim and Witness Assistance Board

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DEDICATION

In the Aftermath of Crime

The publication of this Guide marks the first time a comprehensive resource book has been produced to explain the criminal justice system, victim rights and the types of assistance available to victims and their families in the Commonwealth. We are deeply honored to dedicate this Guide to crime victims in Massachusetts.

The courage, dignity and strength of so many victims in the face of personal tragedy continue to inspire us and to renew our commitment to the cause of victim rights. Indeed, many of the rights and services described in the following pages are the products of the persistent efforts of crime victims and their desire to help others.

The Massachusetts Office for Victim Assistance and the Victim and Witness Assistance Board remain deeply committed to seeing that crime victims' rights are recognized and honored, and to helping victims through the pain and hardships that often follow victimization. We hope the information provided in this Guide will ease this process for victims and their families.



Scott Harshbarger

Attorney General and Chairman
Victim and Witness Assistance Board



Heidi Urich
Executive Director
Massachusetts Office for Victim Assistance

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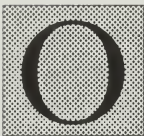
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INTRODUCTION

In the Aftermath of Crime

ne of the most basic and enduring messages of the victim rights movement is that crime victims have the right to be treated with respect, dignity and sensitivity, and the right to be more fully informed of and involved in the criminal justice process. *In The Aftermath of Crime: A Guide to Victim Rights and Services in Massachusetts* has been produced with these ideas in mind. Crime victims often feel isolated and confused not only by what has happened to them or a loved one, but also by being suddenly thrust into the criminal justice system. Few know where to turn for practical advice, explanations or support in a system that seems so complex, busy and unfamiliar. It is our hope that the Guide will help crime victims by providing information about victim rights and the workings of the criminal justice system in this state.

The Massachusetts Office for Victim Assistance (MOVA) and the Victim and Witness Assistance Board have prepared the Guide as part of their mandate under the Massachusetts **Victim Bill of Rights** to ensure that crime victims are fully informed of the court process and their rights as victims. The **Victim Bill of Rights** sets forth the procedural rights of victims during the prosecution of a case and outlines the services to be provided to them by the Victim Witness Assistance Programs in each District Attorney's Office. MOVA and the Victim and Witness Assistance Board are responsible for overseeing the operation and implementation of the **Victim Bill of Rights** and for seeing that victims' rights are protected by other state agencies involved in the criminal justice system.

The rights described in this Guide extend beyond the comprehensive **Victim Bill of Rights** to include other sources of rights, such as state and federal statutes, published court opinions, and administrative regulations of various state agencies. Victim rights also exist by virtue of practices and procedures adopted by particular courts or District Attorneys' Offices. Although the Guide is intended to provide an updated, comprehensive overview of victims' rights in the criminal justice system, it reflects the laws, policies, programs and procedures *in effect as of March 1, 1996*. Inevitably, new legislation, regulatory reforms and court decisions will affect the accuracy of some sections.

It is important to note that all rights and services available to victims under the **Victim Bill of Rights** are *dependent upon there being sufficient funding*. This may cause the strength of the rights and the level of services provided to victims to vary somewhat from county to county. Although many of the rights described in this book apply to all victims of crime, victims of violent crime and survivors of homicide victims are prioritized for receiving the full range of services. Additionally, because the rights described in the Guide are taken from a variety of sources, there may be instances in which a particular statutory right or service may not apply to all victims and survivors. In these cases, the legal definition of who qualifies as a "victim" is governed by the particular statute in question. Further, the information on victim rights in the court process pertains only to crimes committed in Massachusetts falling under state jurisdiction, not federal jurisdiction. However, the rights to victim compensation and assistance from community-based victim service agencies apply to victims of both federal and state crimes.

Finally, most of the information contained in the Guide is provided as an explanation, not a justification or endorsement, of the current law. We realize that, in some circumstances, no amount of explanation will prevent a crime victim from feeling tremendously wronged by what happened and revictimized when the criminal justice system seems to fail in satisfying a very real need for justice. However, many reforms have been enacted to expand victims' rights and to make the system more responsive to their needs.

By being informed of your rights and participating fully in the court process, you have the opportunity to assist in obtaining justice by holding an offender accountable for committing a crime against you, and by holding the system accountable for enforcing your rights as a victim. Indeed, the rights and services established to protect victims can only be effective if victims have a clear understanding of what they are. It is our sincere hope that the information provided in the Guide will make your involvement in the court process more understandable and rewarding, and will help you to achieve both justice and healing.



CHAPTER ONE

Victims and the Prosecution Process

Participating in the criminal justice system can be a frustrating, confusing and painful experience for crime victims. Most courthouses appear full of busy attorneys, judges and police officers struggling with overwhelming caseloads. The court system seems to have its own language not easily understood by the outsider, and its size, pace and complexity can easily make a person feel lost and intimidated. Crime victims and their families often feel like strangers to the system and are sometimes the only people involved with the case who have never been in court before on a criminal matter.

Despite these frustrations, being involved in the court process provides crime victims with the opportunity to directly observe and participate in society's system of justice. The court process enables a victim to hold an offender directly accountable for his or her actions and can be a very empowering experience. This chapter provides information to help you anticipate some of the difficulties and rewards of participating in the court process and to help make your involvement in the system more understandable. It presents an overview of key players in the court process, explains your role and what happens during the prosecution of a case, and describes certain rights and services available to you as a crime victim.

People in the System

Victims and their families encounter many different people playing various roles in the criminal justice system. Police officers, prosecutors, victim witness advocates, judges, defense attorneys, jurors, clerks and probation officers are among the people victims may come in contact with during their journey through the system. The following descriptions should help you figure out “who’s who” in the prosecution process and what their roles are. They are listed chronologically in the order that a victim is likely to encounter them.

Crime Victim

Anyone who is physically, sexually, psychologically or financially harmed or threatened with harm as a direct result of a crime or attempted crime is a victim. During the court process, a victim may also be referred to as the complainant, witness, alleged victim or survivor. Although the victim is the person most directly affected by the defendant’s crime, and charges are frequently brought as a result of that crime, the victim is not a formal “party” to the criminal proceedings in which the defendant is prosecuted. Rather, the Commonwealth of Massachusetts and the defendant are the actual parties, and the victim may function as a witness in the criminal proceedings against the defendant. Although the victim is almost always called by the Commonwealth as a prosecution witness, technically the victim does not “belong” to either side in a criminal case. During the prosecution of a case, the family members of a deceased, minor or incompetent victim are entitled to the same rights as primary victims.

Defendant

The person who is accused of committing a crime is known as the defendant. Depending on the stage of the criminal process, the defendant may also be referred to as the suspect, accused, offender, criminal, perpetrator, inmate or prisoner. The Constitutions of the United States and the Commonwealth of Massachusetts give defendants certain rights as the case against them is processed through the criminal justice system. These include the rights to be presumed innocent until proven guilty; to be protected from unreasonable search and seizure; to have a speedy trial, a competent defense and an impartial jury; to confront one's accusers and witnesses face to face; and to not be compelled to testify against oneself. In some cases, several defendants may be charged with committing the crime. Multiple defendants may be tried separately or at the same time.

Police Officers

When someone is victimized, his or her first contact with the criminal justice system is usually through an officer from the local police department or the State Police. In addition to their initial response to the scene of a crime, police officers write official police reports about the crime, investigate crimes and arrest suspects. Many local police departments in Massachusetts have specialized officers who respond to and investigate crimes in a specific category, such as homicide or sexual assault. If a case goes to trial, the police officers who investigated the crime will probably testify in court as witnesses.

Victim Witness Advocate

After the crime has been reported or a suspect has been arrested, the District Attorney's Office becomes involved in a case. Victim witness advocates, who are employed by the District Attorneys' Offices, are assigned to all serious cases in

which victims were injured or threatened. Advocates serve as a link between the victim and the prosecutor and are the victim's main contacts throughout the prosecution of a case. They offer a number of services to help victims, including giving information about victim rights, notifying the victim of court dates, updating the victim on the case status, providing crisis intervention and referrals to social service agencies, accompanying the victim to court, and helping the victim in filing applications to obtain victim compensation, witness fees and certain offender information. If an arrest has not been made in your case, you can still contact a victim witness advocate to assist you with your rights.

Prosecutor

Each District Attorney's Office has a team of lawyers, known as prosecutors, assistant district attorneys or ADAs, whose job it is to pursue criminal charges against defendants in court. In a criminal trial, the prosecutor must prove the charge(s) against a defendant "beyond a reasonable doubt." To accomplish this, the prosecutor reviews evidence gathered by the police, determines the specific charge(s) to be prosecuted, presents evidence in an effort to construct a convincing legal case, and argues that case before a judge or a jury in order to convict the person charged. It is important to keep in mind that the prosecutor is not the victim's attorney. The prosecutor represents the Commonwealth -- that is, the state of Massachusetts -- in the criminal proceedings and must comply with certain ethical standards in performing those responsibilities.

The prosecutor is authorized to make final decisions about the strategy and prosecution of a criminal case, but the victim generally has input into many of the most important decisions a prosecutor is required to make. As a result, it is

usually unnecessary for a victim to hire a private attorney for the criminal proceedings. The amount of contact that the victim has with the prosecutor varies depending on the needs of the case and other demands on the prosecutor's time. In addition to the District Attorneys' Offices, the Attorney General's Office has prosecutors, known as Assistant Attorneys General, to pursue cases that fall within its jurisdiction. In some counties, police officers may serve as prosecutors in less serious criminal cases. It may be helpful to know that prosecutors and defense attorneys sometimes address each other as "my brother" or "my sister" during the court proceedings. The use of these terms is simply a professional practice, not an indication that the attorneys are related.

Defense Attorney

The defense attorney is the lawyer representing the accused in the court proceedings. Since the Constitution guarantees every citizen the right to a defense, the court will appoint a defense attorney, known as a public defender, to represent the accused if he or she cannot afford to hire an attorney in any case in which incarceration is possible. In a criminal trial the defense is not required to prove the innocence of the defendant. Instead, the defense attorney is obligated to safeguard the defendant's right to a fair trial and to provide a "zealous defense" of the defendant by challenging the strength of the prosecution's case. The defense attorney or an investigator for the defense has the right to contact the victim before trial to request information about the case. However, it is the victim's right to choose whether or not to speak with those persons. Victims are only required to speak with the defense when they are testifying on the stand at trial or through some other court-ordered process.

Judge

The judge is a public official appointed to oversee legal proceedings. It is helpful to think of the judge as a referee who must be fair and neutral in applying and interpreting the rules of law for both sides -- the prosecution and the defense. The role of the judge varies depending on the stage of the criminal proceedings. In cases tried before a jury, the judge decides questions of law and procedure. In cases in which a defendant chooses to waive his or her right to a trial by jury, the judge will decide whether a defendant is guilty or not guilty. In addition, the judge determines what the punishment will be once the defendant has been found guilty or pleaded guilty to a crime. Prosecutors, defense attorneys and others in the courtroom often address the judge as "Your Honor" or "the Court."

Jurors

Every defendant has the right to be tried by a jury of his or her peers. If a case is to be tried, and the defendant chooses to be tried before a jury rather than a judge, jurors must be picked from the general public. Juries are composed of six or twelve people and are chosen by a two-stage process. First, a computer randomly selects the names of ordinary citizens from government population lists. After this selection, the prosecution and defense have a more detailed screening process by which potential jurors are evaluated for their ability to assess the facts of the case without bias and return a fair verdict. Jurors listen to the evidence presented by both sides during the trial, then decide whether or not a defendant is guilty. They can only find a defendant guilty if they are all convinced "beyond a reasonable doubt" of the defendant's guilt. Even if jurors believe a defendant to be guilty, they must find the defendant "not guilty" if they feel the evidence does not prove guilt beyond a reasonable doubt.

Court Officers

Court officers assist the judge in maintaining order and safety in the courtroom. They are uniformed officers who announce the beginning and end of court sessions, direct victims and witnesses to where they should be seated in the courtroom, and escort defendants and jurors into and out of the courtroom. Court officers are also designated to protect people in the courtroom, including victims and witnesses, if a defendant or someone else becomes violent during the court proceedings.

Court Clerks

Court clerks run the court sessions and keep the court schedules. They call the list of cases, state the charges, read the judge's decisions on bail and sentencing, record the official decisions of the judge, and swear in all witnesses. In some cases, clerks also conduct preliminary hearings and determine whether there is probable cause to bring charges against a person.

Probation Officers

Probation officers are court employees whose main responsibility is to supervise convicted defendants who are not incarcerated and have been sentenced to a term of probation. Probation officers are also called upon to investigate the personal and financial circumstances of a defendant to aid the judge in determining indigency, bail and the ability to pay restitution; to write "presentence reports" to assist the judge in formulating an appropriate punishment for a defendant; to inform the judge of a defendant's criminal record, if any; and to make recommendations about whether a defendant would be a good candidate for probation.

Criminal Court Proceedings

Once a suspect is charged with a crime, the case shifts from the police department which investigated the crime to the District Attorney's Office for prosecution. The length of the court process varies, depending on the type of crime charged, the type of evidence, and whether a defendant pleads guilty or goes to trial. Cases in which a defendant pleads guilty are generally concluded within a shorter period of time. Cases in which the defendant wants a trial can take much longer -- up to one year or more for the most serious charges.

If you expect to attend the court proceedings, it is important to remember that judges often impose strict standards of behavior for all people in the courtroom. For instance, some judges demand that there be no talking, reading or displaying of strong emotions in the courtroom. If a judge perceives someone's behavior to be out of line, he or she may issue a general warning to the courtroom or have the disruptive person removed. In general, you may leave and reenter the courtroom as needed, but no one is allowed to enter or exit when the judge is reading the jury instructions. Finally, everyone is required to stand when the judge or jury enters and exits the courtroom.

Each District Attorney's Office normally sends case status letters to victims to inform them of the progress of the case. It is particularly important for you to respond to these letters from the prosecutor as soon as possible, especially if you are asked to provide information about the case (such as your estimated financial losses for restitution). *If you do not respond to these letters, it is possible that the case may be resolved without your*

input. Similarly, you must maintain an updated address and telephone number with the victim witness advocate assigned to your case so that you can be informed of any important developments. The following section describes the various stages of the court process and the victim's role during court proceedings.

Initiating a Criminal Case

Cases come into the criminal justice system in several ways, including police complaints, citizen complaints and indictments. A complaint is a sworn statement that identifies the law violated by the accused and states the facts upon which the accusation is based. Police complaints are issued by a clerk magistrate in District Court based on information supplied to them by police officers. Citizen complaints are also issued by a clerk magistrate in District Court, but are based on information provided to them by both the victim and the defendant. Before a criminal complaint is issued through the complaint process, the clerk may hold a "show cause hearing" to give the person accused of the crime an opportunity to answer questions about the alleged crime. If a criminal complaint is issued, a prosecutor will be assigned to the case.

In the Superior Court, some cases begin through the grand jury process. A grand jury is composed of 23 citizens who are brought together to determine whether there is "probable cause" to believe that the accused committed the crime. The grand jury deliberates after hearing testimony and reviewing other evidence from witnesses and police officers. If a majority of 12 members of the grand jury believe that a crime was probably committed by the person accused, probable cause has been established and the grand jury will issue an indictment against that individual. An indictment, like a complaint, is the piece of paper charging a person with having

committed a crime. Neither the defendant nor the defendant's attorney is present for grand jury proceedings, which are secret and closed to the public. In rare instances, however, a defendant may testify as a witness before a grand jury. You may also be called to testify as a witness before the grand jury. Your victim witness advocate, family members and friends may accompany you to the grand jury proceeding, but cannot be in the room with you when you testify. A prosecutor will be present to ask you questions. Sometimes grand jurors may ask you questions as well.

It is important to remember that in order for a criminal complaint or indictment to be issued, the crime must have occurred within a set time period, known as the statute of limitations. For most felony crimes in Massachusetts, the criminal statute of limitations is six years. The exceptions to this include the crime of murder, for which there is no statute of limitations, and felony sex crimes, for which the statute of limitations varies according to the age of the victim. For victims of rape or attempted rape over the age of sixteen, the statute of limitations is fifteen years from the date of the incident. For victims under the age of sixteen, the statute of limitations is fifteen years after the victim turns sixteen or fifteen years from the date that the crime is reported to a law enforcement agency, whichever is earlier.

Arraignment

Once a complaint or indictment has been issued, the defendant will either be arrested or summoned to court for an arraignment. The arraignment is the first public court proceeding in which the accused is formally charged with a crime. During the arraignment, the defendant appears before a judge, is told what the charges are, and is asked to plead guilty or not guilty to those charges. The defendant is also advised of cer-

tain rights, including the right to an attorney. If the defendant cannot afford to hire an attorney, arrangements are made for an attorney to be assigned for legal representation. Almost all defendants, regardless of their guilt or innocence, plead “not guilty” at arraignment. The act of pleading not guilty is routine and sets the prosecution of the defendant into motion. Nevertheless, it is often emotionally difficult for victims and family members to hear defendants pronounce themselves “not guilty” to the charges.

In some cases, a judge may order that a defendant be evaluated at a state mental hospital to determine whether he or she is competent to stand trial. In order for criminal proceedings to occur, a judge must be satisfied that the defendant has the mental capacity to understand the charges and to assist the defense attorney in providing an effective defense to those charges. This evaluation process may delay or prolong criminal proceedings.

The **Victim Bill of Rights** gives you the right to request that personal information about you and your family, such as a home address, telephone number, and place of employment or school, be withheld from public view. If possible, it is important that you make this request before or during the arraignment since much information about the case will otherwise become part of the public record at this time. If you have concerns about protecting such personal information, you should notify a victim witness advocate or prosecutor as soon as possible.

Determination of Bail

Most defendants are released at arraignment if they are able to meet the bail requirements. Bail is an amount of money or property set by a judge or clerk magistrate that the

defendant must present to the court to guarantee his or her appearance at future court proceedings. Defendants can also be released on “personal recognizance” at arraignment, which means that the defendant signs a promise to appear in court whenever notified to do so and is not required to post bail. This kind of release is common for defendants who have strong ties to the community, are not considered dangerous, and are unlikely to flee before trial. It is important to remember that the amount of bail set by a judge is not a reflection of the guilt or innocence of a defendant.

Although the primary purpose of bail is to make sure the defendant returns to court when necessary, judges are also permitted under Massachusetts law to consider the defendant’s dangerousness in deciding bail. If certain crimes are charged and the defendant is deemed dangerous by a judge, a prosecutor can request that the defendant be held in jail without bail for a period of up to ninety days. If you feel threatened by the potential release of the defendant on bail, you should convey these concerns to the prosecutor or victim witness advocate assigned to the case. This information may affect whether the defendant is released or detained before trial, or may cause the judge to order the defendant to stay away from you until the case is resolved.

Defendants are entitled to a bail review hearing if they believe the amount of bail set by the judge is excessive. Bail review hearings can occur at any time during the court proceedings once bail has been set, but usually occur within a few days of the arraignment. If a judge denies an initial request by a defendant to reduce bail, there are generally no further bail review hearings unless unusual circumstances arise. If a defendant is released on bail while the case is pending, you may or may not be notified depending on the practice of the House

of Correction in your county. The District Attorneys' Offices and the County Houses of Correction are not required by law to provide notification of a defendant's release on bail, but some have developed informal procedures to make these notifications to victims. If you want to be notified, you should make a request to your victim witness advocate or the prosecutor handling the case.

Pre-Trial Conferences and Hearings

The defendant's arraignment is usually followed by a pre-trial conference and one or more pre-trial hearings. A pre-trial conference is held between the arraignment and the pre-trial hearing to allow the prosecutor and the defense attorney to exchange information and discuss how the case may proceed. To promote fact-finding and fairness in the proceedings, both sides are required to provide each other with certain types of information about the case; this process is called "discovery."

At the pre-trial hearing, the prosecutor and the defense attorney present the outcome of the pre-trial conference to a judge. If all the parties agree to the facts of the case, the defendant may plead guilty to the original charge or to a lesser charge, or "admit to sufficient facts," which means that a defendant admits that there is sufficient evidence to result in a guilty finding if the case went to trial. If a plea agreement is likely, the **Victim Bill of Rights** mandates that the prosecutor confer with the victim before making a sentence recommendation to the judge. When no agreement on the case is reached, the judge will usually set a trial date.

Juvenile Transfer Hearings

In cases involving juveniles between the ages of fourteen and seventeen who have previously been committed to the Department of Youth Services or who have been charged with

threatening or inflicting serious bodily injury on another person, a prosecutor may request that a transfer hearing be held to determine whether the juvenile defendant should be tried as an adult. For certain violent crimes, including murder in the first or second degree, manslaughter, rape, forcible rape of a child, kidnapping, armed robbery, and armed assault with intent to rob or murder, a transfer hearing *must* be held. Except for cases involving juveniles charged with murder, all juvenile transfer hearings and court proceedings are closed to the public. However, under the **Victim Bill of Rights**, victims still have the right to attend these proceedings unless a judge orders otherwise.

The transfer hearing process can be very lengthy. During the first part of the transfer hearing (known as Part A), the judge must determine whether there is probable cause to believe that the juvenile committed the crime. During the second part of the transfer hearing (known as Part B), the judge must determine whether the juvenile poses a danger to the public and whether the juvenile can be rehabilitated through the juvenile justice system. Part B of the transfer hearing takes place after an extensive investigation into the juvenile's life, including a psychological evaluation. For the violent crimes listed above, there is a "rebuttable presumption" that the juvenile is dangerous and not likely to be rehabilitated. Prosecutors are only required to prove this by a preponderance (or majority) of the evidence.

If the judge determines that the juvenile is not inherently dangerous and can be rehabilitated by the juvenile system, the juvenile will be tried in Juvenile Court. If the judge determines that the juvenile is dangerous and is unlikely to be rehabilitated, the juvenile will be transferred to the adult system. Either side has the right to appeal the transfer deci-

sion if an error in law was made, which can cause further delays before any trial occurs. If a case is transferred, a new criminal complaint is issued in the adult system and charges in Juvenile Court are dismissed.

Motion Hearings

During the pre-trial period, the prosecutor and the defense attorney may file motions with the court about certain pieces of evidence or points of law which they feel are important to their case. Motions are formal requests to the judge to hear and decide legal questions, and are usually made in writing. Motions are made for a variety of reasons, such as a motion to exclude a particular item of evidence or to obtain additional information. The judge may listen to arguments from the prosecution and the defense with respect to a motion or may simply decide a motion on his or her own. Defense attorneys and prosecutors routinely make motions to continue the case to a later date if they need additional time to prepare. For the most part, you do not need to be present at hearings on motions unless you will be called as a witness, but you can still attend the proceedings.

In certain cases, a defense attorney may make a motion to obtain confidential information about a victim. Such motions are most often made for victims of sexual assault and domestic violence. If the defense attorney makes a motion to obtain your psychiatric records or other confidential information, the **Victim Bill of Rights** requires that the prosecutor discuss the matter with you before any hearing on such a motion. The judge is required to follow specific procedures to determine whether and how such records can be used at trial. Nevertheless, the prospect of having one's private records exposed in a court setting by the defendant can be extremely upsetting. If you have strong concerns about protecting the

confidentiality of your records, you should discuss them candidly with the prosecutor and victim witness advocate assigned to the case.

Dismissals and Guilty Pleas

Sometimes the results of the pre-trial conference and hearing convince a prosecutor to dismiss a case or reduce the charges, or convince a defendant to plead guilty. A prosecutor may consider dismissing or reducing charges for several reasons. If the judge has excluded critical evidence or witnesses have become unavailable or are uncooperative, the evidence may be insufficient to prosecute. In other situations, new evidence may emerge after the case begins which weakens the likelihood of conviction. Sometimes the defense attorney will make a motion to dismiss the case on various legal grounds, such as the denial of a speedy trial or an allegation that the evidence is insufficient to find the defendant guilty. Depending on the circumstances of the case, the prosecutor can ask the judge to dismiss the case in one of two ways: "with prejudice" or "without prejudice." Cases that are "dismissed with prejudice" cannot be brought back into the court system at a later date. Cases that are "dismissed without prejudice" allow a prosecutor to bring the charges against the defendant again at a later date. Before your case is dismissed, however, the **Victim Bill of Rights** requires that the prosecutor confer with you about why the case is being dismissed.

In other circumstances, the evidence of the defendant's guilt may be so strong that the defendant pleads guilty to the crime as charged. The defendant may also plead guilty to one or more of the charges or to less serious charges. Plea negotiations, sometimes called plea bargaining, refer to the attempt by the defense and the prosecutor to agree upon the outcome of a case without having a trial. If an agreement is

reached, both parties return to court to request the judge's approval of the proposed plea agreement. The judge is free to accept or reject the terms of the agreement. However, if the judge does not accept the agreed upon terms and wishes to impose a heavier sentence, the defendant has the right to withdraw the guilty plea and proceed to trial. In District Court, the defendant alone may also offer to plead guilty and propose the terms of the case outcome. If the judge does not accept the defendant's proposed terms, the defendant may withdraw the guilty plea and proceed to trial.

The defendant can choose to change his or her plea to guilty at any time. If the defendant pleads guilty, he or she waives the right to a trial. Most criminal cases -- approximately 85% -- are resolved through guilty pleas. There are many reasons why the various parties engage in plea negotiations rather than going to trial. The defense benefits because the defendant may be convicted for a less serious offense and is spared the additional legal expenses of a trial. In some cases, a plea agreement also allows for sentencing that is tailored to the particular crime and defendant. The prosecution benefits from plea negotiations because the conviction of the defendant is guaranteed. Because criminal cases always involve a level of uncertainty, even a case that appears to be very strong may not result in a conviction if there is a trial. In some cases, there is a possibility that certain key evidence may not be admitted if the judge decides that it was improperly obtained or for other reasons. Another benefit is that plea agreements can help in convicting other persons because prosecutors can sometimes require the cooperation of a defendant as a condition of a plea agreement.

In some circumstances, the victim may also benefit. Plea agreements may spare a victim from having to experience the

emotional stress of testifying and minimize the time and inconvenience that the criminal justice system sometimes imposes on a victim. They also give the prosecutor greater latitude in terms of what may be negotiated for a victim. For instance, the prosecutor may be able to arrange for the voluntary return of property that was stolen from the victim or require the defendant to participate in a counseling program or to make restitution to the victim as part of the plea agreement. The prosecutor may not be able to assure the victim of the same results if the case were to go to trial.

Despite these benefits, the concept of plea agreements is still upsetting to some victims because a plea agreement may result in a conviction for a less serious offense. Some victims believe that reducing the charges minimizes what the defendant did to them. However, plea negotiations are recognized by courts and others in the system as a proper, effective way of resolving cases. Under the **Victim Bill of Rights**, the prosecutor is required to confer with you about the proposed plea agreement. This discussion can provide an opportunity for you to request that certain conditions, such as restitution or an order of no contact, be imposed on a defendant as part of the plea agreement. The **Victim Bill of Rights** also mandates that the prosecutor inform the judge of your views on the sentence recommendation in the proposed plea agreement.

In deciding to propose a plea agreement to the judge, prosecutors normally consider many factors, including:

- the strength of the evidence against the defendant;
- the effect of the criminal offense on the victim;
- the effect a trial may have on a victim;
- the criminal history of the defendant;
- the seriousness of the offense.

The prosecutor may also consider whether the proposed plea will impose a punishment on the defendant that is sufficient for the seriousness of the crime committed even though the defendant may not plead guilty to all charges.

Postponements and Continuances

For many victims, one of the most frustrating parts of being involved in the court process is the frequency with which court proceedings are postponed and delayed. Despite a clause in the **Victim Bill of Rights** which provides for a victim's right to a speedy trial, the court process often takes much longer than victims want. Unfortunately, court hearings and trials sometimes cannot take place as planned. Scheduling conflicts among the judge, prosecutor and defense attorney are inevitable, and the unavailability of key witnesses on certain days may require court proceedings to be postponed to a later date. In addition, scientific testing of evidence may be necessary, or there may be a need for additional investigation. These are legitimate reasons for a judge to grant a continuance. It does not mean that the case is being ignored.

The court process may also be prolonged if either the prosecution or defense wants additional time before the trial begins. Prosecutors often ask for continuances if their schedules are too full to allow sufficient preparation for trial. Although the defendant has a constitutional right to a speedy trial, defense attorneys also request continuances in order to prepare for trial. These repeated continuances and prolonged delays in a case may result in a witness becoming unavailable or a victim's memory of specific details about the crime becoming less precise. In addition, defendants who are released on bail can put off the possibility of conviction and imprisonment for a longer period of time if a trial is delayed through repeated continuances.

If a court proceeding has been postponed, and the postponement is known in advance, your victim witness advocate will inform you of the change in schedule. Nevertheless, it can still be emotionally draining to prepare yourself to testify or hear other testimony only to have the proceeding be postponed. For judges, prosecutors and defense attorneys, continuances are a routine occurrence in their everyday professional life, but for a victim they may be expensive, time consuming and frustrating. It may mean taking unnecessary time off from work and paying twice for child care arrangements. For victims who are testifying, it may mean reliving the crime again and again. Although victim witness advocates try to minimize the hardships that can result from continuances, it is a good idea to call the victim witness advocate the day before the court event to confirm the date and time. You may be able to be placed on telephone standby to avoid waiting in court unnecessarily.

Trial Proceedings

A trial is a court proceeding where evidence is heard and decisions are made about whether a defendant is guilty or not guilty. In general, trials for misdemeanor crimes and less serious felony charges occur in District Court. The most serious felony crimes, which carry potential state prison sentences of five years or more, are usually tried in Superior Court. Trials for crimes committed by juveniles are held in a Juvenile Court session unless the defendant is transferred to the adult system. The length of a criminal trial varies depending on the seriousness of the crime and the complexity of the case. Before a trial begins, the **Victim Bill of Rights** requires that the prosecutor confer with the victim about the proceedings. Typically, the prosecutor or victim witness advocate will review the case with you and explain what usually happens during a trial.

If a case is scheduled to go to trial, the defendant has the right to choose whether he or she wants to be tried before a judge or a jury. If the defendant chooses a trial by jury, jurors must be chosen from a pool of ordinary citizens who have been summoned for jury duty. All prospective jurors are required to complete questionnaires which assist prosecutors and defense attorneys in making decisions about which jurors to accept. Both sides have the right to challenge the inclusion of a prospective juror if they feel that person has some bias which could unfairly influence the jury. In addition, the prosecution and the defense are each allowed to make a certain number of "peremptory" challenges of prospective jurors, which means that they can exclude a prospective juror without being required to state a reason why they do not want that juror, as long as the challenge is not based on race, sex, national origin or other factors which would be discriminatory. Superior Court trials are heard by a twelve-member jury and District Court trials are heard by a six-member jury.

Once the jury has been picked and the trial begins, the prosecution and, in most cases, the defense make opening statements to the jury to explain what they expect the trial to prove before actually presenting evidence. The prosecution is required to present its evidence first. The defense has the option of making an opening statement after the prosecution has made its opening statement or after the prosecution's presentation of evidence is completed. During the trial various witnesses are called to testify by answering questions posed to them by both the prosecutor and the defense attorney. Witnesses are individuals who have some knowledge about matters that are relevant to the case. Someone who saw or heard the crime take place, including the victim, may be called as a witness. The prosecution and the defense may also call expert witnesses to provide testimony. An expert witness is someone,

such as a coroner or psychologist, who can provide more technical information about a subject relevant to the case. Evidence may also be presented in the form of a physical item that may be relevant to the case, such as a weapon recovered at the crime scene.

After the prosecution and the defense have had the opportunity to offer their evidence to the court, each side summarizes its view of the case during closing arguments. Neither side is allowed to present new evidence at this stage. After the closing arguments have been made, the judge will provide instructions to the jury on the law and what elements need to be established in order to convict the defendant of the particular crime. The jury then deliberates in private on whether or not the defendant is guilty of the crime charged based on the evidence presented and the judge's instructions on the law.

Hearing the testimony of other witnesses can be very upsetting to a victim or surviving family member. Depending on the nature of the crime and the level of violence involved, the testimony may include graphic details about how the crime caused injury. Autopsy reports and photographs may be introduced as evidence and can be painful to hear and see. You can ask your victim witness advocate to alert you when such information will be presented so that you can leave the courtroom if you want. In addition, testimony sometimes involves a public discussion of subject matters about the victim that are normally very private. If you feel that you may lose control of your emotions while you are listening to such testimony during the court proceedings, you should leave the courtroom until you have regained your composure. Although such reactions are fully understandable, a defendant may argue that they unfairly influenced the jury, and possibly provide grounds for a defendant to appeal.

The **Victim Bill of Rights** gives victims the right to be present during most court proceedings. If you wish, you can also bring friends or family members with you to court to provide emotional support during trial. Since courts are open forums, any member of the public can attend the proceedings unless the judge orders otherwise. However, except for cases involving juveniles charged with murder, all juvenile court proceedings are closed to the public. The judge has the discretion to allow victims and their family members to attend other juvenile proceedings. Beyond these court-ordered limitations and instances of disruptive behavior in the courtroom, a victim or a family member may only be excluded from the court proceedings when the victim or a family member is scheduled as a witness to testify, *and* the judge determines that hearing the testimony of other witnesses could influence that person's testimony. The judge may then order that the victim or family member wait outside and not be allowed to participate in or observe the court proceedings until that person has given his or her testimony. This is called the "sequestration" of witnesses. The judge may also order that witnesses not discuss their testimony with each other.

It is also important to remember that no one is allowed to talk or whisper during the court proceedings. If you have questions or concerns about something relative to the trial during the proceedings, you should write them down and give them to your advocate.

Testifying at Trial

At trial, the victim may be called to testify as a witness for the prosecution. As a witness, it is the victim's duty to tell the truth about what happened. Because the evidence heard by the judge and the jury must follow certain legal procedures, witnesses tell what they know about the crime through a ques-

tion and answer format, rather than the conversational style to which you may be accustomed. First, you will be asked to answer specific questions posed by the prosecutor (this is called direct examination). After the prosecutor has finished questioning you, the defense attorney has the right to ask further questions (this is called cross-examination). The prosecutor then has another opportunity to ask you further questions in order to clarify your responses (this is called redirect examination).

You may feel conflicted or nervous about testifying in court. Although you want to see justice done and do not want the charges dropped, you may have concerns about testifying. You may fear making a mistake or saying something foolish on the witness stand. You may be afraid of being cross-examined by the defense attorney. You may also feel that the success of the case depends on the strength of your testimony. These feelings are normal reactions. Testifying can cause anxiety for victims and other witnesses because it is not something most people have done before.

If you are required to testify, you will receive a subpoena, which is an official notice from the court directing you to appear in court on a certain date and time. Anyone who receives a subpoena *must obey it*. If you fail to appear in court, you may be held in contempt of court, be subject to a fine, or have a warrant issued for your arrest.

Prior to testifying, the prosecutor will meet with you to review your court testimony and the facts of the case. The prosecutor or victim witness advocate will prepare you for standard courtroom procedures. As you prepare for your testimony, try to keep these suggestions in mind:

- Listen carefully to the questions posed to you.
- Think before you speak.
- If you do not understand a question posed to you, ask for a clarification.
- Answer all questions directly and briefly.
- Respond to questions truthfully.
- Stay calm, be courteous, and try not to lose your temper in response to questions.
- Do not volunteer information or personal opinions.
- If you do not remember or know something, say so.
- Be familiar with the statement you made to the police.
- Be attentive during court proceedings.
- Dress neatly and conservatively.
- If you are upset and need to collect yourself on the stand, ask the judge for some time.
- If an attorney objects to something, stop speaking until the judge makes a ruling.

In the course of their legal responsibility to provide a zealous defense for their clients, defense attorneys may do or say things which you find extremely upsetting. Undergoing cross-examination by the defense can be a difficult experience for any witness, but particularly for a victim. Although there are rules limiting the conduct of a cross-examination, the defense attorney is permitted to question the victim on all matters covered during the victim's direct testimony, as well as on issues deemed by the judge to be relevant to the victim's credibility as a witness.

Sometimes the defense attorney, in an attempt to create reasonable doubt, may ask questions that upset you or suggest things about you that are untrue, exaggerated or taken out of context. It may feel overwhelming not to be able to defend yourself, and you may feel that you are the one who is on trial

rather than the defendant. As difficult as it may be, try to remember that the defense attorney's job is to challenge the prosecution's evidence and to defend the legal rights of the accused -- not to defend what the accused may have done. Furthermore, much of what the defense attorney asks you may be based on information provided by the defendant. If you are concerned about the types of questions that you might be asked and how best to answer them, you should discuss these concerns with the prosecutor or your victim witness advocate.

Findings and Verdicts

When all testimony has been heard at trial and the prosecutor and defense attorney have presented their closing arguments, the judge or jury will deliberate on the case and return a finding or verdict. This is a decision about whether the defendant has been proven guilty of the crime. A jury's determination that the defendant is guilty must be unanimous and beyond a reasonable doubt. The announcement of the jury's verdict can be a very tense experience for victims.

When a criminal case goes to trial, there is always the risk that the defendant will be acquitted. Some defendants will be found not guilty. Hearing that a defendant has been acquitted in a trial can be devastating to victims and survivors. For a variety of reasons and despite everyone's best efforts, the evidence in the case may not be strong enough for a judge or jury to convict. You may feel certain that the defendant is guilty and think that the verdict is wrong, but a judge or jury must decide a case based only on the evidence they get to hear -- that is, evidence that is legally admissible. In addition, the law requires the prosecution to prove the defendant guilty beyond a reasonable doubt. Defendants cannot be retried on the same charge once they have been found not guilty by a judge or jury.

It is important to remember that a “not guilty” verdict does not necessarily mean that a defendant is innocent of the crime or that you are not believed. It only means that the evidence presented was insufficient to prove that the defendant was guilty of the crime *beyond a reasonable doubt*. The judicial process is, by definition, impartial. Because the criminal proceedings are based on law, the victim’s plight is not the immediate consideration. The emotions and personal circumstances of the case are deliberately removed. As a result, it may be very different from the justice to which you feel entitled. In a trial, whether or not the guilt of the accused has been proven is the only matter in question.

Sometimes jurors may not be able to agree on a verdict and become deadlocked in their deliberations. If they cannot reach a unanimous verdict, the jury is “hung” and the judge will declare a mistrial. The defendant may then be tried again before a new jury. Although hung juries occur infrequently, the prospect of having to go through another trial can also be extremely upsetting to a victim.

If a defendant is found not guilty by reason of insanity, that defendant is legally acquitted of the crime, despite having committed the acts charged. This result means that a judge or jury was not convinced beyond a reasonable doubt that the defendant understood that his or her acts were against the law, or had the ability to conform his or her conduct to the law, because of a mental defect or mental illness. In order to be convicted of a crime in Massachusetts, defendants need to have had the ability to comprehend that their actions were wrong at the time they were committed. These defendants are not subject to the regular sentencing procedures and victims are not permitted to present a Victim Impact Statement. In cases in which the defendant has been deemed not criminally

responsible, the judge will order a commitment hearing to determine if the defendant is to be committed to a state mental hospital. If an insanity defense is unsuccessful, as most are, the defendant is convicted and sentenced in the usual manner.

Sentencing and the Victim Impact Statement

Once a defendant is found guilty, the judge can sentence him or her immediately or set a future date for sentencing. The judge may ask for a pre-sentence investigation by the probation department. A pre-sentence investigation explores the defendant's background and any life circumstances which may have relevance to the crime or the sentence to be imposed. The results of that investigation are submitted to the judge, along with an assessment of whether a defendant would be a good candidate for probation.

The prosecutor also submits a sentencing recommendation to the judge. Before a sentence is recommended, the **Victim Bill of Rights** gives you the right to confer with both the probation officer and the prosecutor about the impact that the crime had on you as a victim and about their proposed sentence recommendations. The prosecutor is required to tell the judge what you think of the sentence recommendation. If the probation officer is unable to confer with you, he or she must note the reason in the report to the judge.

The job of imposing a sentence belongs exclusively to a judge. The judge will consider both favorable and unfavorable facts about the defendant before determining the appropriate sentence to impose. Typically, a judge considers the seriousness and circumstances of the crime for which the defendant has been convicted and the defendant's past criminal behavior. At the sentencing hearing, the defendant and his

attorney have the right to present any mitigating factors which might cause the judge to lessen the punishment. First and second degree murder are punishable by mandatory sentences and do not provide for a judge's discretion in sentencing the defendant, except for cases in which the judge must decide whether to impose consecutive or concurrent sentences on a defendant. Other crimes have mandatory minimum sentences which may restrict a judge's consideration of evidence favorable to the defendant, but still allow the judge a range. In most crimes, the judge has a wide range of sentencing options, including:

- placing a defendant on probation;
- ordering the defendant to a jail or prison term;
- imposing a fine or restitution, or both;
- requiring participation in rehabilitation and/or treatment programs;
- creating a sentence involving some combination of these sanctions.

Whether or not the crime which affected you carries a mandatory sentence, the **Victim Bill of Rights** entitles all victims of felony crimes and crimes which caused physical injury to present a Victim Impact Statement to the judge at sentencing. The Victim Impact Statement is a written and/or oral statement describing the physical, emotional, psychological and financial injuries you have suffered as a result of the crime committed by the defendant. You also have the right to express your views to the judge through the Victim Impact Statement about what you feel is an appropriate sentence, including any request for restitution or an order of no contact. The suggestions of victims and their family members can often be incorporated by the judge into the special conditions of the sentence.

Within sixty days after a sentence has been imposed or the finality of a conviction is established on appeal, a defendant has the right to make a motion to “revise and revoke” the sentence. This means that the defendant is seeking to have some aspect of the sentence, such as the length of time to be served, reviewed by the trial court. In most instances, motions to revise and revoke are made for the purpose of reducing the original sentence. If a motion is filed, a hearing may be held and the prosecution and the defense argue their positions on the issue before a judge. If the judge believes the sentence is excessive or otherwise unjust, he or she has the authority to amend the original sentence. Each county has its own policy regarding notifying victims of motions to revise and revoke. If you have concerns about this happening and want to be notified, you should ask your victim witness advocate about your county’s policy.

Appeals

All defendants have the right to appeal their convictions to an appellate court. First degree murder convictions are automatically appealed to the Supreme Judicial Court (the highest court in the state), but most other cases are directed to the Appeals Court. If a juvenile defendant is found delinquent in Juvenile Court, the juvenile is entitled to appeal for a new trial (known as a “de novo trial”) in Juvenile Court. There are no witnesses presented before the Appeals Court. Consequently, the victim does not have a role in the appeals process, but may attend the court proceeding in which oral arguments are presented.

In deciding an appeal, the appellate court may review the official transcript of the trial to determine whether it was conducted in accordance with applicable procedural rules and principles of law. In response to the defendant’s appeal, the

District Attorney's Office files a legal brief opposing the defendant's arguments and presents its own oral arguments to the appellate court. The judges of the appellate court normally ask the attorneys a series of questions and make a decision a few months later based on a majority vote of the judges. If a legal mistake was made that substantially affected the rights of the defendant, the conviction may be overturned and the case may be retried.

Although appeals are common, it is rare that the outcomes of cases are overturned. Since defendants frequently file appeals that are highly unlikely to succeed, victims are not normally provided notification of a defendant's appeal unless they specifically request notice from the District Attorney's Office or the District Attorney's policy is to notify victims. Notice of repeated appeals may be particularly upsetting to victims after a long trial. Such news may cause a setback for victims at a time when they finally have an opportunity to heal from the crime without the interference of court proceedings. If an appellate court decides to overturn a defendant's conviction and grant a new trial, you are entitled to all rights and services during the second trial that are described in the **Victim Bill of Rights**.

If a serious case such as homicide is overturned on appeal, it is possible that news of the reversal will be published or broadcast by the media before you receive notice. In some circumstances, the news media receive notice of a reversal from the Appeals Court before or at the same time that notice is given to the District Attorney's Office. If the case involving you is appealed, it is important that you maintain current address and telephone information with your victim witness advocate to help ensure notification.

If you would like a copy of a transcript of a trial held in Superior Court, it is made available to the public for a fee once an appeal date has been determined. You can order the entire transcript or just a portion of it, such as the section covering your testimony. Transcript fees are on a per-page basis and can cost several hundred dollars or more for the full trial transcript. These costs cannot be reimbursed through victim compensation or restitution. However, if a trial has been transcribed as a result of an appeal, it is possible that the District Attorney's Office already has a copy. Because trial transcripts are considered Criminal Offender Record Information (CORI) documents, all victims certified to obtain CORI information may be able to get a copy of the transcript from the District Attorney's Office after the appeal. The District Attorney's Office may require a nominal charge for copying, but it may enable victims to avoid the more costly transcription fees. (*See Chapter Two for information on becoming CORI-certified.*) Otherwise, if you would like to order a transcript, you should ask your victim witness advocate or the clerk's office to assist you. Tapes of trials held in District Court are available for purchase through the clerk's office and can be requested at the conclusion of each court proceeding.

Victim Advocate Assistance

Victim witness advocates serve as personal contacts during the court process and provide victims and witnesses with updated case information. In addition, they offer needed emotional support and encouragement and help to ease many of the difficulties and hardships a crime victim may experience throughout the criminal justice process. Without their assistance in the Commonwealth's courts, victims would often be

left to negotiate the criminal justice system by themselves. With the authority provided by the **Victim Bill of Rights**, advocates and prosecutors work in partnership to implement these rights and make the criminal justice system more accessible and responsive to victims. The following section describes the services available to victims through victim witness advocates during the court process.

Crisis Intervention

Victim witness advocates provide crisis intervention to victims and their families and help them to deal with their immediate needs following the crime. Some victims may need medical attention or mental health counseling; others may require emergency shelter or financial assistance. Advocates are trained to deal with the unique emotional consequences of crime for many victim populations, including child abuse, rape and sexual assault, homicide and family violence. They are familiar with local and regional networks of service providers, and can refer victims to other agencies for more specialized assistance.

Court Appearance Notification

Victim witness advocates are required to notify all victims and witnesses when they need to appear in court. Victims are also kept informed of case developments and possible delays in proceedings. To minimize the amount of time victims spend in court, advocates can attempt to arrange appearance dates that are convenient for victims and, in some cases, arrange for victims to be on stand-by for their court appearances. If you are coming from a distance or have to take time off from work, it is a good idea to call your victim witness advocate the day before you are scheduled to be in court to double check that the proceeding will occur as scheduled.

There are several kinds of court hearings for which you might be required to testify. These include a show cause hearing, a probable cause hearing, a grand jury appearance, a motion hearing, an appearance in court for trial, and sentencing. It is difficult to schedule court hearings at a time convenient for all the parties involved, but when the court sets a time and place for a hearing in the case in which you are involved, it is imperative that you attend and arrive promptly. If an emergency arises or you know in advance that you will be unable to make a scheduled court appearance, you should inform the prosecutor's office immediately so that an attempt can be made to reschedule your appearance. The court proceeding is still likely to take place, but in order to reschedule your appearance, the judge may require an explanation and some verification for the reason you were unable to attend.

Financial Information

Victim witness advocates are responsible for providing you with information to help recover certain financial losses caused by the crime. They are trained to assess the special needs of victims and to determine whether victims may be eligible for restitution and victim compensation. They can assist victims in documenting losses for restitution and in applying for victim compensation. Brochures on compensation and restitution are usually sent to victims with the initial case status letter or distributed during an initial meeting with the advocate.

You are also entitled to receive a nominal witness fee of \$6 plus a small mileage allowance for each day that you are subpoenaed to court to testify, including time spent waiting to testify. The purpose of the witness fee is to cover basic transportation costs to court; it is not intended as reimbursement for wages lost due to witness service. The mileage allowance

is low and may correspond to a state mileage schedule rather than the actual miles traveled. Your victim witness advocate can help you obtain your witness fee and mileage allowance.

Transportation Services

If you are unable to provide your own transportation to court, your victim witness advocate may be able to assist you. If you live in an urban setting, programs will pay you the standard witness fee to reimburse the cost of public transportation. If you live where public transportation is not readily accessible, advocates may help to make arrangements with area taxi companies, the local police or some other service. If you live out of state but were victimized while in Massachusetts, the District Attorney's Office may be able to arrange and pay for travel and accommodation costs if you will be required to testify and such accommodations are necessary.

Case Process Notification Services

One of the primary tasks of victim witness advocates is to keep victims informed of developments in the case and to explain the various stages of the criminal justice process to victims. The **Victim Bill of Rights** mandates that victims be informed of significant developments in the case, including the final disposition of a criminal case. Prosecutors and victim witness advocates contact victims before and after a disposition to discuss the jail or prison status of an offender, the likelihood of appeal and, if relevant, the terms of probation and restitution.

If you call your prosecutor or victim witness advocate to inquire about the status of your case, it is likely that they will be in court and unable to answer your call immediately. To have your call returned promptly, it is helpful to leave a list of the best times to reach you during the day.

Employer/Creditor Intercession Services

If an employer or creditor threatens you with the loss of your job or other financial hardship as a result of your attendance at a criminal proceeding, your victim witness advocate can intercede with them on your behalf. The advocate can attempt to curtail any loss of pay or other benefits by speaking directly to the employer or by providing a letter explaining the importance of your participation in the trial. If you have received a subpoena to testify at trial, the advocate can inform an employer that the **Victim Bill of Rights** prohibits any employer from firing, threatening to fire, or penalizing you in any way as a result of your required attendance at trial.

Victim witness advocates can also assist you in your dealings with creditors. The advocate can seek consideration from a creditor if you are temporarily unable to continue payments as a result of the crime committed against you. If you have lost wages and incurred other unexpected expenses as a result of the crime and your participation in the criminal justice system, you may be eligible for benefits through the state Victim Compensation Program. The advocate can relay this information to creditors in order to prevent harassment or punitive actions by creditors.

Expedited Property Return

Under the **Victim Bill of Rights**, any property that was stolen from you during the crime or seized by law enforcement authorities as evidence must be returned to you within ten days of its taking if it is not needed for the criminal case, or as soon as possible once it is no longer needed. Victims are asked to complete property release forms, and it is the responsibility of the courts, the district attorney or other law enforcement authorities to promptly return the property once proceedings have finally concluded. Two exceptions to this requirement

include property which is contraband and property whose ownership is disputed.

In some cases, the prosecutor may determine that it is sufficient to present photographs and videotapes of your property at trial rather than submitting your property as the actual physical evidence. This practice can minimize the delays in returning property to its owner. If the case involving you is going to be appealed and you want to have your property returned, you should ask your prosecutor or victim witness advocate if this is an option.

Your victim witness advocate can assist you in making arrangements for the return of your property or the personal effects of a deceased family member. However, you should be aware that some property that is seized for evidence purposes may not appear in the same condition as it was before the crime. For instance, the residue of the powder used in testing for fingerprints may be visible, clothing may be torn or stained with blood, or stolen property may be damaged as a result of the crime. As a general rule, it is a good idea to ask the victim witness advocate about the condition of your property before you retrieve it. It can be very upsetting to have your property returned in such conditions if you are not prepared.

Protection Services

Victims are occasionally harassed or intimidated by the defendant or other persons acting on behalf of the defendant while the case is pending. Although threats of violence made against a victim for participating in a trial are not common, they are taken very seriously by police and prosecutors when they are made. If a defendant threatened you during the crime and told you not to go to the police, you may feel frightened about potential retaliation. If the defendant or anyone

else threatens you in any way or you feel uneasy about participating in the court process, you should discuss these concerns with the prosecutor and victim witness advocate. It is against the law to harass, threaten or intimidate a witness.

If the defendant has been released on bail or personal recognizance while the case is pending and you have concerns or questions about the conditions of the defendant's release, you can discuss them with the prosecutor handling the case. If necessary, your victim witness advocate can help you to obtain a protective order if you qualify or to find safe shelter if threats are made against you or a family member.

Confidentiality Protection

As a victim, you are also entitled to request confidentiality in the criminal justice system. If you feel uneasy about your address, telephone number and place of employment or school being part of the court record, the **Victim Bill of Rights** gives you the right to ask the judge to keep this information confidential. You may also request the same confidentiality for your family members. Although the judge may require some showing of a threat made against you before granting a request for confidentiality, he or she has the authority to prevent or limit disclosure of this information. All requests for confidentiality should be made through the prosecutor as soon as possible -- preferably before or during the arraignment.

For certain sex crimes, such as rape and attempted rape, the law prohibits public disclosure of a victim's name. To protect the victim's confidentiality, the victim's name is usually blacked out in all police reports and court records and is not considered part of the public record. Anyone who discloses the name of a victim without the victim's consent in these cases can be severely fined by the court.

If a defense attorney has subpoenaed your confidential medical or counseling records and a judge rules that those records are relevant in determining some aspect of the case against the defendant, you should ask the prosecutor to request that the records be impounded and not made available for viewing outside the courthouse or by anyone other than the individuals specifically designated by the judge. Although such records would still be available to the defense, these precautions may help to prevent further disclosure.

Family Support Services

The Victim Witness Assistance Programs of the District Attorneys' Offices may be able to help victims arrange for child care and other family support services throughout the duration of a criminal case. In cases in which the victim has severe financial hardships, it may be possible to arrange limited child and dependent care services if that victim has been subpoenaed to testify. However, most courts do not have child care services available, and children are usually not permitted in the courtroom. You may not be able to remain in the courtroom if you are accompanied by children.

If you are having difficulty in arranging child care in order to attend a court proceeding, you should contact your victim witness advocate to discuss what can be done. Sometimes a family member or friend may be the best person to provide temporary child care. Advocates can make referrals to social service agencies to assist families in this need.

Secure Waiting Facilities

The **Victim Bill of Rights** requires that victims be provided a secure waiting area during court proceedings that is separate from that of the defendant. However, the reality is that many of the older courthouses currently do not have such

designated areas. The crowded conditions of many courthouses have made the provision of this service difficult and, in some cases, impossible. If a separate waiting area is unavailable, the prosecutor can make alternative arrangements and take other safeguards to minimize your contact with the defendant and the defendant's relatives and witnesses. If you are uncomfortable in any way, you should speak with the prosecutor or victim witness advocate about the possibility of waiting in the District Attorney's Office or some other area.

Social Service Referrals

All Victim Witness Assistance Programs of the District Attorneys' Offices have developed working relationships with social service and counseling agencies that assist victims. Depending on your needs, your victim witness advocate can provide referrals for resources in your area. These resources include, but are not limited to, emergency housing, crisis counseling, child care accommodations, and medical and mental health counseling. If you have questions, are worried, or want assistance, you should contact your victim witness advocate. Being the victim of a crime and being involved in the criminal justice system can be frightening and difficult experiences, and it helps to have some support. Victim witness advocates have helped many other victims in similar situations and often understand what you are facing.

Intervention with the Media

Depending on the circumstances surrounding the crime, the media may report on the case involving you. The occurrence of a crime is a standard news story in both print and broadcast media. The media generally report the facts surrounding the commission of a crime and state who the suspect is, if known. The media may also report the name of the victim. However, as a matter of policy, the media generally do

not publish or broadcast the names of a sexual assault or child victims unless the victim has consented to being named or has been killed in the crime. If the case goes to trial, some coverage of the trial may also occur.

Extensive news coverage of a crime story is usually reserved for high profile cases. In these rare cases, your victim witness advocate can serve as a buffer between you and the media during court proceedings if you wish. However, since much criminal justice information is contained in public records, reporters may be able to locate your name and address. Some more aggressive reporters may repeatedly approach you for interviews about the crime by phone or in person at your home, or they may use indirect measures to acquire information about you and the crime. It is important to remember that you are under no obligation to speak to reporters at any time. The decision to grant an interview or comment on the case is entirely up to you.

However, if you decide to speak with the media, it is a good idea to consult your prosecutor or victim witness advocate beforehand. Although you have every right to speak with the media, it may be best for the case that you not grant interviews or that you do not discuss certain aspects of the crime, particularly if you will be called as a witness at trial. If there is too much pre-trial publicity about a case, the defense attorney may ask the judge to change the location of the trial. If the judge grants the request, the trial will be held in another jurisdiction to minimize the possible effect of the pre-trial publicity. A change of location could create serious practical hardships for the victim in attending the court proceedings. Also, a victim's comments to the media can sometimes be misquoted or taken out of context and later used at trial to undermine a victim's credibility.

Despite these cautions, some victims feel a need to share their stories with the public as part of their healing process. If you would like to tell your story to the media once the case has concluded, your victim advocate may be able to help you. Journalists routinely call the Victim Witness Assistance Programs of the District Attorneys' Offices seeking to interview victims for stories on a particular subject. Victim witness advocates are often placed in the difficult position of wanting to publicize an issue that impacts victims' rights but also wanting to protect the privacy of victims. If you are willing to discuss your case and experiences in the criminal justice system, the advocate can refer the journalist to you to help with the story and to educate the public. Of course, you are also always free to initiate your own contact with the media.

Services for Special Victim Populations

In addition to the services mandated by the **Victim Bill of Rights**, specialized victim service units may exist in each District Attorney's Office. These units provide services to victims of child abuse, domestic violence, sexual assault and surviving family members of homicide victims. Victim witness advocates are also trained to work with other specific populations such as elderly victims, victims with disabilities, refugee victims, and non-English speaking victims.

If you do not speak English, you can request that a translator be present to help you understand your rights and the court proceedings. Many of the Victim Witness Assistance Programs have bilingual advocates on staff for this purpose. In addition, courts covering areas with large populations of non-English speaking citizens may have translators available. If you are physically challenged, victim witness advocates can make arrangements to facilitate your access to court buildings or otherwise accommodate your needs.

CHAPTER TWO

Post-Conviction Services for Victims

Massachusetts has a number of state agencies involved in the punishment, incarceration and rehabilitation of criminal offenders. These include the Probation Department, the Department of Correction, the County Houses of Correction, the Department of Youth Services, the Department of Mental Health and the Parole Board. In the past, these agencies focused primarily on programs designed to meet the needs of criminal offenders and to reduce the chances of an offender committing new crimes. Recently, these agencies have begun to recognize the needs of crime victims by instituting new programs and policies to serve them.

While the conviction of an offender signals the end of some victims' involvement in the justice system, many still desire to be informed of post-conviction proceedings and decisions regarding the offender. For offenders on probation, victim involvement tends to be about securing restitution and maintaining other conditions of probation. For incarcerated offenders, victim involvement centers on issues surrounding release from custody. The **Victim Bill of Rights** mandates that all victims, witnesses and family members of deceased, incompetent or minor victims have the right, upon request, to advance notice when an offender is moved from a secure to a less secure facility, receives a temporary, provisional or final release from custody, or escapes.

It is important to remember that victims' post-conviction rights are not automatic or implemented by a single agency, as they were during the prosecution of the case. In order to be notified of release or obtain information about an offender from post-conviction agencies, victims must apply for certification from the Criminal History Systems Board. This chapter explains the post-conviction agencies and offers suggestions for obtaining offender information and other rights as a crime victim.

Criminal History Systems Board

The Criminal History Systems Board (CHSB) administers the Criminal Offender Record Information (CORI) law, which governs the distribution of criminal record information of adult offenders to the criminal justice community, crime victims and the general public. Any member of the public has the right to contact correctional facilities to request information about an offender's placement and custody status and to contact CHSB for certain information about an offender's criminal record. However, depending on the type of offense and the amount of time that has elapsed since the date of conviction, some restrictions exist which may limit the criminal record information that will be made available. CHSB does not oversee record information for juvenile offenders or individuals found not guilty by reason of mental illness; separate procedures have been established to handle release notifications for these offenders.

The CORI law provides additional rights to crime victims beyond those held by all members of the general public. Crime victims have the right to be notified of an offender's release from custody and the right to obtain more extensive

criminal record information about an offender. However, these rights to notification and information are not automatic; they are provided only *upon request*. Victims must be certified for both purposes by the Criminal History Systems Board in order to receive notification and offender information. The Victim Service Unit of CHSB is responsible for certifying crime victims. All certifications are kept confidential by criminal justice personnel.

Applying for CORI-Notification

In order to be notified of an offender's release from custody, you must apply to be certified for this purpose. Individuals who qualify as victims under the **Victim Bill of Rights** and whose offender has been convicted of a crime against them are automatically eligible to be certified. Your victim witness advocate can provide you with a certification application and assist you in completing the necessary information once the offender has been convicted and sentenced to a term of incarceration. If multiple offenders were convicted in the case involving you, you should complete a separate CORI application for each offender. If more than one surviving family member of a homicide victim wishes to be notified, each person must complete a CORI application individually.

In addition, any individual who reasonably believes that an offender poses a risk to his or her physical safety can become certified through a process known as the Citizen's Initiated Petition (CIP). The individual does not need to be the victim of the crime for which the offender is incarcerated. For example, a woman with a restraining order against her ex-husband who is incarcerated on drug charges may have a reasonable fear of harm from him upon his release from custody. Even though the woman is not the primary victim of the criminal conduct for which the offender is incarcerated, she would

be eligible to be certified. The CIP process requires that the person seeking certification provide a written statement explaining why the person fears the offender.

Once the Victim Service Unit receives your application, it will verify your eligibility and the status and placement of the offender in the correctional system. When you are certified, the Victim Service Unit at CHSB sends a confirming letter to you and informs the correctional facility where the offender is in custody about your certification. Notification of an offender's release is made by the correctional facility where the offender is incarcerated, not the CHSB Victim Service Unit. The **Victim Bill of Rights** mandates that the Department of Correction, Sheriffs' Departments and the Parole Board, as custodial authorities, are responsible for notifying CORI-certified individuals whenever the inmate is moved from a secure facility to a less secure facility, receives a temporary, provisional or final release from custody, or escapes. The releases include, but are not limited to, work release programs, educational releases, emergency releases under escort, transfers to other correctional facilities, and parole.

Applying for Additional Offender Information

In addition to mandated notification rights, victims are also eligible to be certified to obtain additional information about an offender's criminal record under the CORI Law. The CORI Law authorizes state criminal justice agencies to release certain offender information to victims, witnesses, family members of homicide victims, and the parents or guardians of minor-aged victims. If you want to obtain specific criminal justice information about the offender who harmed you, you need to be certified separately for this purpose by CHSB. *A certification for notification is not the same as certification for obtaining offender information.*

In order to qualify for this certification, you need to provide some documentation that you were a victim of a crime committed by the offender. This documentation can simply be a letter from the District Attorney's Office stating that you are or were a victim in a criminal case against the offender. Unlike the certification for notification, you can apply for this certification before an offender is convicted of the crime involving you as a victim. Many victims find that obtaining criminal record information about an offender helps them to gauge how dangerous that person may be.

Once you are certified by CHSB to obtain additional offender information, the Victim Service Unit will send you a letter confirming your certification and a copy of the offender's entire criminal record of arrests, convictions and case outcomes. The letter confirming your certification serves as your "license" to obtain the criminal offender information you are seeking directly from a particular criminal justice agency, such as the Probation Department or the Department of Correction. In general, the CORI Law applies to information about an offender's crime, arrest, prosecution, conviction, incarceration, probation and parole.

In some cases, criminal justice agencies are also authorized to provide you with "evaluative" or mental health information about an offender, such as an offender's progress in a court-ordered rehabilitative program. However, decisions about releasing evaluative information are made at the discretion of the agency holding the information and are generally reserved for cases in which the information has a bearing on the victim's security and well-being. In some cases, certain information about an offender may not be provided if it is deemed part of an ongoing investigation by law enforcement. Procedures governing the release of information by law en-

forcement and criminal justice agencies can vary substantially from one agency to another, and from one case to another.

Updating and Canceling Certifications

Once you become certified, *it is your responsibility to maintain updated contact information* with CHSB. Most correctional facilities rely on the address information provided by victims to CHSB in making notifications about an offender's release. You should inform the Victim Service Unit of CHSB of any change in your name, address or telephone number. CHSB will notify the Parole Board and the correctional facility where the offender is in custody about your information change to ensure notification.

A certification can only be canceled by CHSB. Individual correctional facilities are not allowed to cancel the certification. If you want to cancel your certification, you must request the cancellation in writing to CHSB. If CHSB issues a cancellation, it will notify you and the appropriate custodial authorities. In general, a CORI certification can be canceled upon the final release of the offender, when an offender dies, if the certified person requests cancellation, or if the certified person misuses or illegally distributes CORI information.

Probation Department

In the majority of criminal convictions, the offender is placed on probation as part or all of the sentence imposed. Probation is an alternative sentence to a prison term by which the offender is released into the community under certain conditions. Throughout the probation period, the offender is required to adhere to these conditions and may be under the supervision of a probation officer.

A victim's involvement with the probation department usually relates to probation conditions of the offender which affect the victim, such as paying restitution, participating in a counseling program and adhering to an order of no contact with the victim. Under the **Victim Bill of Rights**, crime victims are entitled to receive a copy of the conditions of probation, the restitution payment schedule, if any, and the name and telephone number of the probation officer assigned to supervise the offender's probation period. Your victim witness advocate can help you obtain this information.

Probation Supervision

Once a judge sentences an offender to probation, most offenders are assigned to a probation officer for supervision. Probation officers monitor the offender's compliance with the conditions of probation, direct the offender to appropriate rehabilitative programs, and assist the offender in obtaining lawful employment. Other offenders (typically those convicted of misdemeanor crimes) are placed on probation but are not required to be supervised on a regular basis by a probation officer. These offenders are still required to follow the conditions of probation, including any special conditions, for a period of time determined by the judge.

Probation Revocation

An offender's probation can be revoked if the offender violates the conditions of probation, such as committing a new crime. The probation officer can recommend that the offender then be required to serve the sentence in the House of Correction or in prison. If a probation officer does recommend revocation for an offender, a revocation hearing will be conducted by a judge who determines if a violation occurred and whether the offender should be placed in custody. You have the right to discuss with the probation officer any condi-

tions of an offender's probation which affect you. If you have information about an offender's violation of probation, you can report it to the supervising probation officer. Decisions to revoke probation are made by the judge and are most common for offenders who commit another crime or who repeatedly and willfully violate the conditions of probation. Judges also consider the seriousness of a violation before revoking the offender's probation.

Probation Duties to Victims

Probation officers have several duties toward crime victims. The CORI law entitles victims who have received CORI certification to obtain probation information about an offender. If requested, probation officers are required to inform certified victims whether an offender is complying with the conditions of probation, such as participating in a rehabilitation program. For instance, a victim of domestic violence may want to know if the offender is participating in batterer's treatment or alcohol rehabilitation. The CORI law mandates that the probation officer must provide this information to a victim. A probation officer may also inform the victim of how the offender is performing in such programs if the probation officer determines that the offender's performance in a program affects the safety and well-being of the victim.

Probation officers also have specific obligations to victims with respect to restitution. At the victim's request, the probation officer is required to provide the victim with a copy of the schedule of restitution payments. This may be done directly or through the District Attorney's Office. Probation officers are responsible for monitoring an offender's payments and ensuring that a victim receives a check for restitution paid by the offender. If you are scheduled to receive a restitution check but it has not arrived, you should contact the probation

officer supervising the offender. If the offender is seeking to modify a restitution order, the **Victim Bill of Rights** mandates that the supervising probation officer notify you of the proposed modification. The law also gives you the right to be heard at any hearing on the issue.

Department of Correction

If an adult offender is sentenced to serve time for committing a crime, the seriousness of the crime and length of the sentence imposed usually dictate where the offender will be incarcerated. Offenders sentenced to serve time for a longer period on serious felony convictions are usually committed to the state prison system, which is run by the Massachusetts Department of Correction (DOC). Offenders sentenced to serve time for a shorter period on less serious felony or misdemeanor convictions are usually sent to one of the County Houses of Correction, which are run by the County Sheriffs.

The primary responsibility of the Department of Correction is to oversee the administration and operation of the Commonwealth's adult correctional facilities. DOC offers rehabilitative programs to incarcerated offenders and has established screening committees to make recommendations on each offender's status and program plan. Whether or not an offender participates in a rehabilitative program is a decision made by the offender -- DOC cannot require offenders to participate in programs unless the offender is seeking to be placed in a less secure facility. Offenders are placed in correctional facilities considered most appropriate to their security risk and program needs. In addition, procedures have been established within DOC to provide victims with information about the correctional system and notification of an offender's release.

Inmate Classification Procedures

When a male offender receives a state prison sentence, he is transported directly from court to the Massachusetts Correctional Institution (MCI) in Concord for booking, admission, and an initial classification review. Once the inmate has been reviewed and his security risk and program needs have been evaluated, he is transferred to a correctional facility appropriate to his needs and risk level. MCI-Cedar Junction is the most secure facility for men in the state and generally houses those inmates who have demonstrated disruptive behavior while incarcerated.

Female offenders who receive state prison sentences are transported directly from court to MCI-Framingham, which is the only committing institution for female offenders. In some cases, female offenders serving state prison sentences may also be placed in custody at County Houses of Correction. Female offenders undergo the same classification process as their male counterparts and may also be transferred to another correctional facility if appropriate.

All offenders are reviewed by the classification board at least every six months. There are six security designations which correspond to the type of facility in which an offender is incarcerated, with level six representing the most secure prison facilities. Each security level has structural barriers to prevent inmate escape and otherwise control the behavior of offenders. Offenders may be transferred between similarly secure facilities or may be placed in a higher level facility. However, if an offender is to be moved from a secure facility to a less secure facility, the Department of Correction is obligated under the **Victim Bill of Rights** to notify any CORI-certified victims.

Sentence Computation

The sentencing of offenders is sometimes misleading to victims. It may be difficult to figure out what an offender's sentence means in terms of actual time to be served because there are many different types of sentences that can be imposed, and offenders may participate in programs which can lessen the amount of time they are incarcerated. For instance, despite the initial sentence imposed, an offender may reduce the length of time actually served through "good time" credits earned for program participation. In addition, offenders have "jail credits," which represent the amount of time already served while awaiting trial. Sentencing may also seem confusing because the sentence imposed is usually accompanied by a variety of dates, such as the parole eligibility date, the minimum and maximum discharge dates, and the good conduct discharge dates, which further influence when an offender will be released.

The Truth in Sentencing Law mandates that offenders convicted of crimes committed after July 1, 1994 must serve at least the minimum term of a state prison sentence prior to the parole eligibility date. Certain sentences such as life sentences are excluded from any reduction.

Statutory Credits vs. Earned Credits

The Truth in Sentencing Law eliminated statutory credits for state prison sentences for all offenses committed on or after July 1, 1994. Offenders incarcerated for crimes committed prior to this date are still entitled to statutory credits against their sentence, unless an offender has been given a life sentence or is a sex offender. In the past, statutory credits were automatically deducted from the maximum term of an offender's sentence upon the initial commitment to the Department of Correction. For those offenders whose sentences

are still covered by statutory credits, the amount of credits an offender can receive is based on the length of the sentence and ranges from 2.5 to 12.5 days per month.

The amount of time an offender serves can also be reduced if the offender earns credits while incarcerated. These earned credits are sometimes called “good time” credits because they are granted if an offender successfully participates in work, education and rehabilitation programs while incarcerated. Although the use of the term “good time” may seem offensive to a victim after the offender has been convicted of committing a crime, these credit programs may provide an incentive for offenders to rehabilitate themselves while in custody and may encourage more law-abiding behavior after the offender’s eventual release. An offender can receive 2.5 days credit per month for participating in one of the three types of credit earning programs, for a maximum credit of 7.5 days per month. The total number of credits earned is then subtracted from the possible release dates to arrive at adjusted dates.

Release Notification

The **Victim Bill of Rights** entitles CORI-certified victims to receive advance notification whenever an offender is moved from a secure facility to a less secure facility, has been given a temporary, provisional or final release from custody, or escapes. In the event of an escape, DOC notifies CORI-certified victims immediately by telephone. If you are CORI-certified, the superintendent’s designee at the DOC institution where the offender is incarcerated will make this notification.

When an inmate is to be released, DOC notifies victims by telephone or in writing in advance of the release. All efforts are made to locate any certified victim before an offender is transferred or otherwise released. However, if an offender

is scheduled for a final discharge, he or she must be released even if the certified victim cannot be reached. Depending on the type of crime for which an offender is incarcerated, the local police department of the town in which the offender is to be released may also be notified of the impending discharge. Notification for "emergency release under escort" is made to the victim as soon as possible. Under regular circumstances, notification of a final discharge is made 30 days in advance of the offender's release.

County Houses of Correction

An offender who is sentenced to serve time for a misdemeanor or less serious felony is usually committed to a County House of Correction. The House of Correction system in Massachusetts is operated on the county level by the local Sheriff's Department. The Sheriff is responsible for housing offenders who are awaiting trial (generally referred to as being held in "jail"), housing offenders sentenced to the County House of Correction, and transporting prisoners. The Houses of Correction sometimes incarcerate offenders originally sentenced to the Department of Correction if the offender has protective custody issues, notoriety or other hardships, or if state prison facilities have reached the maximum capacity for housing inmates.

Release Notification

The House of Correction in each county has a designated victim contact person to handle victim concerns and to provide notification of an offender's release from a county correctional facility. The **Victim Bill of Rights** entitles all CORI-certified victims to receive advance notification whenever an offender is moved from a secure facility to a less secure facil-

ity, has been given a temporary, provisional or final release from custody, or escapes. If you are CORI-certified, the victim contact person at the county correctional facility in which the offender is jailed will provide these notices to you.

When an inmate is to be released, the County Houses of Correction generally notify victims in writing or by telephone in advance of the release. Because offenders incarcerated at the County Houses of Correction are often sentenced to shorter terms of incarceration, an offender's release may occur before a victim expects or becomes CORI-certified because the offender is credited with the time served in custody while awaiting trial.

Department of Youth Services

The primary mandate of the Massachusetts Department of Youth Services (DYS) is to protect society from young offenders while giving them an opportunity for rehabilitation. DYS is responsible for operating the holding facilities for juveniles who committed offenses between the ages of 7 and 17. If a juvenile is adjudicated delinquent and is committed to the custody of DYS, DYS normally retains authority over the juvenile until age 18. In some instances, DYS will have custody of a juvenile until age 21. The agency operates a network of facilities ranging from secure institutions to less restrictive community-based group homes in which it houses and treats the juveniles committed to its custody.

The problems victims normally face in obtaining information about an offender in the adult system can be magnified for victims dealing with the juvenile justice system. This is particularly true with respect to the release of information

about the juvenile offender. The philosophy behind the juvenile justice system calls for information about a juvenile offender to be kept confidential, and juvenile records can be sealed if a juvenile has had no further record three years after release from supervision from his or her last offense. Victims are still eligible to be notified of a juvenile offender's release from custody on a case by case basis, but agency restrictions make it unlikely that a victim can obtain prior records or evaluative information about a juvenile.

Juvenile Classification

When a juvenile is found delinquent, a judge may order the juvenile to be placed in DYS custody until he or she turns 18. Judges generally do not order a specific rehabilitation program. If the juvenile is found delinquent of committing murder in the first or second degree, these crimes carry mandatory sentences of 15-20 years and 10-15 years respectively. A juvenile found delinquent of manslaughter can be placed in DYS custody until he or she turns 21. In other cases, if the juvenile is still believed dangerous, DYS can petition to hold the juvenile until 21.

Upon commitment to a DYS detention facility, a case-worker is assigned to the juvenile and a decision will be made by the DYS Classification Panel about where the offender is placed, and for how long. This decision is made after consideration of the juvenile's individual characteristics and the circumstances of the crime. Although the juvenile's family can attend these proceedings, victims are not allowed to participate in this classification process.

Juveniles found delinquent of first or second degree murder serve their sentences in secure DYS facilities until they turn 18 or 21, depending on the case. At that point, the juve-

nile is transferred to serve the remainder of the sentence at a Department of Correction facility, where the offender is subject to the same conditions of incarceration that would apply if the offender had been convicted of the crime in the adult system. Upon request, victims can be notified when the offender is transferred to the Department of Correction.

Release Notification

The **Victim Bill of Rights** mandates that victims of crimes committed by juveniles be notified, upon request, whenever the juvenile offender is moved from a secure to a less secure facility, receives a temporary, provisional or final release from custody, or escapes. However, the process by which victims obtain notification of a juvenile offender's release is different from that of adult offenders. The CORI-certification process of the Criminal History Systems Board *does not apply to juvenile offenders*. If you would like to be notified of a juvenile's release, you must make a formal, written request to the Office of the General Counsel at DYS. After verifying your eligibility to receive notification under the **Victim Bill of Rights**, DYS notifies you directly. Beyond this basic mandate, DYS has discretion over the release of all other offender information and evaluates information requests on a case-by-case basis.

Department of Mental Health and Bridgewater State Hospital

The Department of Mental Health (DMH) and Bridgewater State Hospital have custody of certain offenders who have been found not guilty by reason of mental illness. These offenders are *civilly* committed by the court to either a DMH

facility or to Bridgewater State Hospital, which is a facility of the Department of Correction. Male offenders who are to be committed to a mental health facility and are deemed to be in need of a high level of security are committed to Bridgewater State Hospital. Other offenders, including all females, are committed to DMH and are placed in a locked, secure facility. In addition, offenders who have been committed to Bridgewater State Hospital may be transferred to a DMH facility at any time after a judge determines that they are no longer in need of Bridgewater's strict security.

Because offenders who have been adjudicated not guilty by reason of mental illness are technically found "not guilty" of a crime despite an acknowledgment by the court that they committed it, information about these offenders is deemed confidential by DMH and Bridgewater State Hospital unless it clearly bears on the victim's safety and well-being. Because such information about these offenders is protected by laws governing the confidentiality of information contained in psychiatric records, victims in these cases do not have the same information rights as victims in cases in which the offender is convicted and incarcerated in a correctional facility.

Release Notification

In Massachusetts, offenders adjudicated not guilty by reason of mental illness can be released once they no longer meet the criteria for involuntary commitment -- that is, the point at which they no longer pose a likelihood of serious harm to themselves or others as a result of mental illness. Prior to discharging an offender adjudicated not guilty by reason of mental illness, DMH and Bridgewater State Hospital are required to notify the court and the District Attorney's Office that prosecuted the criminal case. This notification is required in cases where the facility intends to discharge the

offender during the term of a court order for commitment, or in cases where the facility does not intend to seek an extension of a commitment order once it expires. The District Attorney's Office still has the authority to seek the continued commitment of the offender.

Because of the confidentiality protections that exist in these cases, DMH and Bridgewater State Hospital do not provide automatic notification of an offender's release to victims. However, because notification of a release is provided to the District Attorney's Office, you may be able to be notified of an offender's release if it is the policy of that District Attorney's Office to provide that notification. Some District Attorneys' Offices have developed informal procedures to make these notifications to victims. If you want to be notified, you should make a request to your victim witness advocate or the prosecutor handling the case.

Other Notifications

Despite the lack of automatic notification of release to victims, Massachusetts law requires licensed mental health professionals to warn and take precautions to protect any identified persons, such as the victim in the original criminal case, against whom the offender makes an explicit threat during the course of communication with the mental health professional, *if the professional believes the offender has the ability to carry out the threat*. This obligation also exists when a mental health professional has a reasonable basis to believe that any patient with a known history of violence may attempt to inflict serious bodily harm on an identified person. These warnings are made to the identified person by telephone, letter or any other reasonable means of notification.

Parole Board

Parole is a process by which certain offenders are released from incarceration for the latter part of their sentence in order to help them successfully reintegrate into the community. The offender on parole release serves the remainder of his or her sentence in the community according to certain conditions and under the supervision of a parole officer. Because all House of Correction sentences and almost all prison sentences are time limited, most offenders will eventually be released from custody either through parole release after completing a set portion of their sentence or upon completion of their sentence.

The Massachusetts Parole Board is the state agency responsible for making parole release decisions for certain adult criminal offenders who are incarcerated. The Parole Board is composed of seven members appointed by the Governor to serve five-year terms. The Parole Board holds hearings throughout the state for offenders eligible for parole, makes decisions about whether they will be released, sets conditions governing parole releases, and has the ability to return offenders to custody if warranted. The Parole Board also serves as the Governor's Advisory Board of Pardons to make recommendations on all pardon and commutation petitions filed by offenders. The Parole Board has established a Victim Service Unit to assist crime victims through the parole process.

Parole Eligibility

Parole eligibility differs according to the crime and the type and length of sentence imposed. The date on which an offender becomes eligible for parole is set by various laws and regulations. For all offenders, the parole eligibility date is tentatively calculated at the start of the offender's incarceration,

taking into account any time served pending trial. As a result of the Truth in Sentencing Law, the formula for determining parole eligibility dates differs for offenders who committed crimes before July 1, 1994 (the old system) and offenders who committed crimes after July 1, 1994 (the new system).

Under the old system, offenders serving state prison sentences for committing crimes against a person (i.e., violent crimes) are generally required to serve at least two-thirds of their minimum sentence, minus the amount of time accumulated through earned credits. Offenders serving state prison sentences for committing other crimes (i.e., property crimes) are generally required to serve at least one-third of their minimum sentence, minus the amount of time accumulated through earned credits. Under the new system, every state prison offender is required to serve at least the minimum term of the sentence imposed, minus the amount of time accumulated through earned credits, and offenders serving House of Correction sentences are eligible for parole after serving half of their sentence.

Under both the new and old systems, offenders serving life sentences for first degree murder convictions and those serving sentences of less than sixty days are not eligible for parole. Also under both systems, offenders serving second degree life sentences are eligible for parole after having served a mandatory fifteen years in prison. Offenders serving other mandatory sentences are not eligible for parole during the mandatory period of their prison term and, in most cases, cannot earn "good time" credits to reduce the mandatory period of the sentence.

It is important to remember that parole eligibility does *not* mean that an offender will automatically be paroled. The

standards for whether someone is technically eligible for parole are very different from whether an offender is suitable for parole. The Parole Board Victim Service Unit will send you a written notice of the offender's parole eligibility date once you become CORI-certified for notice. You may also contact the Victim Service Unit to determine the parole release status of the offender responsible for your victimization.

As a result of the statutory and earned credit system within correctional facilities, it is possible for an offender to "wrap-up" a sentence before you anticipate. In these cases, the offender has completed the sentence in full and is not required to participate in a parole hearing or to be supervised by a parole officer upon release.

Parole Hearings

Once an offender becomes eligible for parole, a parole hearing is scheduled to consider whether the offender is suitable to be released. Suitability for parole release is based on more subjective criteria, such as the probability that the offender has been rehabilitated and will not violate the law and whether the release is compatible with the welfare of society. Parole release is not granted simply as a reward for an offender's good conduct while incarcerated. To address these concerns, parole hearings normally focus on the offender's prior criminal record, the particulars of the offense, the degree to which the offender has participated in rehabilitation programs, the continuing impact of the crime on the victim or surviving family members, and other factors. The Parole Board's decision to release an offender on parole is made by a majority vote.

Parole hearings for offenders serving second degree life sentences are open to the public, including the victim, the

victim's family and friends. Any member of the public is allowed to attend and testify at these parole hearings, which are held at a central location away from the correctional facility. The Parole Board Victim Service Unit will notify you of the pending parole hearing and inform you of your rights to attend and testify at the hearing. Because these hearings occur long after the offender's conviction, it is important to maintain current address information for each surviving family member who wants to be notified. To help ensure notification of the parole hearing date, each family member should be certified individually through the Criminal History Systems Board.

In addition, parole hearings for offenders convicted of other crimes in which a person was killed, such as vehicular homicide and manslaughter, are open to the surviving family members of the victim. Although these parole hearings are not open to the public, surviving family members are allowed to attend and testify at the hearing, which is conducted at the Parole Board's central office in Boston. If you have been certified through CORI, the Victim Service Unit will notify you of the pending parole hearing and inform you of your rights to attend and testify at the hearing. However, each surviving family member must be certified individually in order to attend or testify.

All other parole hearings are held before a Parole Board panel at the correctional facility where the offender is incarcerated. *These parole hearings are not open to the public, including victims*, but victims can offer their views through written, audiotaped or videotaped statements to the Parole Board. Decisions on the parole requests of offenders are made immediately after the parole hearing unless a Board member requests a vote of the full Parole Board or needs additional

information. For offenders serving sentences at the County Houses of Correction, parole hearings are conducted by Hearing Examiners rather than Parole Board members. The Hearing Examiners make a recommendation to a Parole Board member, who makes the final decision about whether to release the offender on parole.

Victim Impact Statements in Parole Process

Regardless of the nature of the crime, victims have the right to participate in the parole decision-making process by submitting a Victim Impact Statement to the Parole Board. If you submitted a Victim Impact Statement at sentencing, the **Victim Bill of Rights** entitles you to have the statement included in the offender's official record before the Parole Board. If you did not submit a Victim Impact Statement at sentencing or would like to revise your statement, the Victim Service Unit can assist you in preparing it for consideration by the Parole Board.

Victims are encouraged to express their feelings and concerns in a format which is most comfortable for them. For example, some victims have elected to submit videotaped statements, poems and photographs of a deceased victim, while others have preferred to make a formal written statement to the Parole Board. Your statement can include a brief description of the crime, any fears or concerns you have about the offender or the possible release, and the long-term impact the crime may have had on you.

If you do not have access to video or audio equipment, you can go to the Victim Service Unit at the Parole Board to record a statement. The staff can also facilitate opportunities for victims and families to meet and communicate directly with members of the Parole Board. All information sent to

the Parole Board is kept confidential. Materials submitted to the Parole Board as part of the hearing process cannot be returned to you.

Notification of Parole Board Decisions

If you are CORI-certified, the Parole Board will notify you of the outcome of the hearing, regardless of whether parole was granted or denied. If an offender is granted parole, you will be informed of the release date and any special conditions of parole that have been placed on the offender, such as an order of no contact. The Victim Service Unit can also assist you with safety planning and counseling referrals.

If an offender is denied parole, the Parole Board can inform you of the offender's next parole hearing date. For offenders serving second degree life sentences, parole hearings are held once every five years unless an earlier date is approved by a majority of Parole Board members. For all other offenders, parole hearings are held once each year until the offender is granted parole release or completes the sentence.

Parole Supervision and Revocation

Once on parole, all paroled offenders are assigned to a parole officer for supervision. Parole officers are assigned to regional offices throughout the state and attempt to assist offenders in adjusting to the community while monitoring their activities in order to protect the public. All offenders are required to follow the conditions of parole, including any special conditions imposed by the Board. Parole may be revoked if the offender is found to be in violation of the conditions of parole, such as committing a new crime or using controlled substances. The parole officer can return the offender to custody to await a revocation hearing. Revocation hearings are conducted by the Parole Board to determine if a violation

occurred and whether the offender should be returned to custody to complete the remainder of the sentence.

Commutation Proceedings

In addition to the regular parole release process, an incarcerated offender can seek to reduce the amount of time to be served in prison by appealing to the Governor for clemency through the commutation process. If granted, a commutation could provide for an earlier parole eligibility date or allow an offender previously ineligible for parole to become eligible. Although a commutation reduces an offender's sentence, it does not necessarily mean that the offender will be automatically released. When the commutation results in an offender becoming eligible for parole, a regular parole hearing is held.

An offender applies for a commutation by petitioning the Governor's Executive Council. The Council is an elected board which advises the Governor and ultimately decides whether to commute an offender's sentence once the Governor has decided that commutation is appropriate. The Council submits the petition for commutation to the Parole Board, acting as The Advisory Board of Pardons. The Advisory Board of Pardons makes an initial determination about whether the offender is appropriate for a commutation hearing. If the Parole Board members vote in favor of the offender to be considered, a public hearing is held by the Parole Board. The victim and the victim's family members are able to testify at this hearing about their views on the petition, or to submit written, audiotaped or videotaped statements.

If the Parole Board votes in favor of commuting the offender's sentence after this public hearing, it submits that recommendation to the Governor, who decides whether to approve the offender's petition. The petition is then submit-

ted to the Executive Council which may hold another public hearing at which the victim and the victim's family can attend and testify, and decides whether to confirm the Governor's decision to commute the offender's sentence.

Pardon Proceedings

In rare instances, an offender may also apply for clemency in the form of a pardon by the Governor. The granting of a pardon occurs only in extraordinary circumstances because it relieves the offender of the civil consequences of having committed a crime -- that is, the record of that crime is sealed to all except the courts and law enforcement agencies. The process for deciding on pardon requests follows procedures similar to those for commutation proceedings. Victims and their families are allowed to attend and testify at all public hearings relating to the pardon petition.

CHAPTER THREE

Financial Remedies for Victims

In addition to physical and emotional damages, crime produces serious and unexpected financial losses. A victim may have property stolen or damaged, incur medical and counseling expenses, or lose income due to an inability to work or extended involvement in the court process. The surviving family members of a homicide victim may have funeral and burial expenses to pay at the same time that they have lost the family's primary wage-earner. In addition, violence often prompts crime victims to take costly self-protection measures, such as installing alarm systems or enrolling in self-defense courses, which create further expenses.

Although some victims have worker's compensation or medical, life, automobile and disability insurance policies to cover part of these expenses, many have no insurance or very limited coverage and are left to handle an overwhelming financial strain by themselves. When it comes to finances, victims often feel trapped in a dilemma: they cannot think about negotiating their finances because they feel too overwhelmed by the physical and emotional impact of violent crime, yet they cannot take care of their physical and emotional needs because they don't have enough money to pay crime-related bills. The financial impact of crime often adds another layer of victimization and crisis.

Fortunately, several potential sources of funding exist to compensate victims for their crime-related losses, including state victim compensation, court-ordered restitution and civil litigation. Regardless of the type of recovery you seek, *it is*

important that you retain all bills and receipts for expenses related to the crime. You should also keep a chronological record of your crime-related expenses along with copies of police reports and other relevant documents. This chapter provides an overview of the major ways crime victims may recover their crime-related financial losses.

Victim Compensation Program

The Commonwealth of Massachusetts provides financial compensation for certain out-of-pocket expenses incurred by victims as a direct result of a violent crime. Compensation is paid by the state and the federal Victims of Crime Act (VOCA) out of public revenues through a program run by the Victim Compensation and Assistance Division of the Attorney General's Office (Victim Compensation Program). In order to maximize the number of victims who receive compensation, the Victim Compensation Program is intended to be a "fund of last resort" for crime victims. This means that the expenses for which a victim is seeking reimbursement must not be covered by another source, such as private insurance or restitution, and that the victim must have exhausted all other sources of public benefits for which the victim may be eligible, such as hospital-based Free Care, worker's compensation, or applicable Veterans' Benefits.

Eligibility Requirements

In order to be eligible to receive Victim Compensation, you must be a victim of a violent crime who suffers physical or psychological injury, a dependent or family member of a homicide victim, or a person who incurs the funeral and burial expenses of a homicide victim. You do not need to be a resident of Massachusetts to qualify, but the crime must have

occurred in Massachusetts. Unless there is good cause for delay, you must have reported the crime to the police within five days of its occurrence *and* submitted your claim to the Victim Compensation Program within three years of the date of the crime.

Although Victim Compensation decisions are not based upon whether someone has been arrested or convicted for the crime, victims seeking compensation must cooperate with law enforcement officials in the investigation and prosecution of the crime in which they were injured. This is required not only to encourage the apprehension and conviction of offenders, but also to reduce the possibility of fraud from non-victims. If a victim is physically or psychologically unable to cooperate or reasonably believes that his or her safety may be in jeopardy as a result of cooperating with law enforcement, this requirement may be waived.

There is no financial means test to prevent a person from being eligible for Victim Compensation. Claims are processed without regard to the financial status of the victim or the offender. Although no emergency awards are given by the Victim Compensation Program, the process for reviewing compensation claims may be expedited for those victims who demonstrate extreme financial hardship.

Expenses Covered

The Victim Compensation Program only covers specified out-of-pocket expenses incurred by victims *as a direct result of the crime*. Crime-related expenses must exceed \$100 to qualify for compensation unless the person is over 60 years old or a victim of rape. The maximum compensation amount awarded is \$25,000, and there are limits on certain types of expenses, such as funeral and burial costs.

Typical expenses covered include, but are not limited to, medical and dental expenses, mental health counseling, funeral and burial expenses, lost wages, loss of homemaker services, and loss of financial support for dependents of homicide victims. Unfortunately, the Victim Compensation Program cannot cover property losses or damages, pain and suffering or loss of companionship. In addition, crime-related expenses reimbursed by private insurance, court-ordered restitution, civil damage awards or other public funds are not eligible for Victim Compensation.

Application and Verification Procedures

You can obtain a compensation application from your victim witness advocate or by contacting the Victim Compensation Program directly. Advocates are available within the Victim Compensation Program to assist victims in completing the application. There is no application fee required to file a claim for Victim Compensation.

In general, the compensation application form is straightforward and you do not need to hire an attorney to complete it. Victims are not required to go to court on a claim unless they are appealing a decision made by the Victim Compensation Program. However, if you do hire an attorney, the Victim Compensation Program will award reasonable attorney's fees up to 15% of the total compensation awarded, which is deducted from your award amount.

You must verify all crime-related expenses claimed with documentation. Typically, supporting documents include police reports, bills for services or treatment, employer's reports or prior tax returns to demonstrate lost wages, insurance forms and death certificates, if applicable. Not providing sufficient documentation may cause your compensation award to

be delayed, reduced or denied. Your victim witness advocate can attach the police report to your application or will mail it directly to the Victim Compensation Program.

Once the application and documentation are complete, investigators verify your eligibility and expenses. Upon completion of the investigation, the Victim Compensation Program will make a decision on the claim and notify you. If you agree to the award decision, a check will be issued directly from the State Treasurer. If you disagree with the decision, you may request reconsideration by the Program or appeal the decision in court. Claims typically take about six months to process.

Advocate Assistance

In addition to helping you complete the necessary application forms for compensation, victim advocates in the Victim Compensation Program can assist you in maximizing the benefits available to you as a crime victim. They can refer you to agencies providing services, such as mental health counseling, at low or no cost to victims. If you have a compensation application pending, they may also provide assistance with your creditors regarding your crime-related financial obligations. For instance, if you are having difficulty with funeral expenses, the advocate can inform the funeral home director about the Victim Compensation Program and explain that you qualify or have applied for Victim Compensation to cover funeral expenses. Many funeral homes and other creditors are willing to defer the collection of payments for this reason.

Additional Expenses

You may submit any additional crime-related bills to the Victim Compensation Program until the maximum benefit has been paid. If you incur additional expenses for treatment of

your injuries (i.e., mental health counseling) after your initial claim has been settled, you should contact the Victim Compensation Program to find out whether and how you should submit the additional bills. There is no strict time limit for the submission of supplemental bills, but the time period must be reasonable and the subsequent expenses must clearly be related to the crime.

If you continue to be billed for expenses that you believed were already paid by the Victim Compensation Program, you should inform the Program as soon as possible. For large expenses, such as medical bills, the Victim Compensation Program often negotiates a settlement as payment in full for the services provided to the victim. As a condition of payment, a hospital or other creditor is not allowed to hold the victim financially responsible for the balance of the bill.

Subrogation for Restitution and Civil Judgments

If you have applied for or received Victim Compensation, you may still pursue court-ordered restitution from the offender or initiate a civil suit for crime-related damages. However, the Victim Compensation Program is entitled to repayment if restitution or a civil judgment is subsequently received. This right to repayment by the Victim Compensation Program is called subrogation.

As a general rule, it is still a good idea to seek restitution and file a claim for compensation at the same time. Restitution can be ordered for expenses that the Victim Compensation Program does not cover, such as stolen and damaged property losses, and you may have expenses which exceed limits imposed by the Program. You can continue to receive restitution for specified expenses related to the crime until you are fully reimbursed for those expenses. Moreover, although

restitution may be ordered at sentencing, payments are generally ordered by the judge to be made in installments over a longer period of time, and there is no guarantee that it will be collected and paid in full. The same precaution holds true for civil judgments against an offender or another legally responsible party.

You are *legally obligated* to notify the Victim Compensation Program of any restitution or other payments received which cover the same expenses submitted to the Program. If you have not yet received payment from the Victim Compensation Program, these expenses will be deducted from your total award. If you have already received payment from the Victim Compensation Program, you are legally responsible for reimbursing the Program for any amount that has been paid twice.

Court-Ordered Restitution

Another potential source of reimbursement to crime victims is court-ordered restitution. Restitution is compensation paid by criminal offenders to victims for the losses, damages and other expenses incurred as a result of the offender's criminal conduct. Typically, a judge orders the offender to pay the out-of-pocket expenses caused to the victim, such as damaged or stolen property, lost wages, and uninsured counseling expenses and medical costs. Any victim who has suffered financial losses as a result of the crime can request that restitution be ordered as part of the sentence imposed on the offender.

Victims' rights concerning restitution are more complicated than for victim compensation because the rights of the

offender are also involved. For instance, although the underlying purpose of restitution is to require the offender to reimburse a victim for losses caused as a result of the criminal conduct, restitution -- in a legal context -- involves "taking" something from an offender. As unfair and illogical as this may seem to a victim, the legal process by which courts do that "taking" must safeguard the procedural rights of the offender. The judge must evaluate legal questions which are separate from the right of the victim to request restitution. In most cases, the fact that the victim has crime-related financial losses is not disputed, although the offender may dispute the amount of those losses. If the amount is disputed, a hearing is held in which the amount of the losses must be proven by the prosecution.

Pros and Cons of Restitution

There are distinct strengths and weaknesses to restitution as a financial remedy that victims should consider. The clearest advantage is that *restitution is paid by the offender* as a direct consequence of his or her criminal conduct. Restitution ordered by a judge holds the offender responsible to the victim financially. The other major advantage to restitution is that it can be ordered for all expenses related to the crime, including property losses, which are not reimbursable through Victim Compensation. Since most violent crime victims have property losses in addition to the physical and emotional harm, restitution can provide additional relief for this financial burden.

Restitution also has some weaknesses. First, unlike victim compensation or a civil lawsuit, restitution is available as a remedy for victims only in cases in which the offender is convicted of a crime. Second, restitution is not mandatory. Even if a victim requests restitution, a judge can refuse to or-

der restitution or order only partial repayment if he or she determines that the offender does not have enough money to repay the victim. Third, restitution is typically ordered only in cases in which an offender is placed on probation. Judges usually do not order restitution if they are sentencing offenders to prison or jail terms because offenders are normally unable to earn enough money to pay restitution while incarcerated. Not all offenders are eligible for work release due to security concerns, and those who do work within state prisons are permitted to earn only three dollars per day of labor. Those wages may be then used to meet a variety of court-ordered financial obligations.

Another major problem with restitution is that even if an offender is ordered by a judge to pay restitution, there is no guarantee that the victim will ever be reimbursed. Some offenders may simply default on the obligation. Other offenders may delay paying restitution or seek payment extensions until later in their probation period. Once probation ends, there is no mechanism for overseeing an offender's payments and it is very unlikely that a victim will ever receive the remaining restitution.

Requesting Restitution

Under the **Victim Bill of Rights**, you have the right to request that the offender pay restitution to you for damages caused by the crime. If you intend to request restitution from the offender, you should discuss your losses with the victim witness advocate or prosecutor as soon as possible. Your victim witness advocate can provide assistance in documenting your losses for the judge. Most Victim Witness Assistance Programs of the District Attorneys' Offices have forms available for victims to use for this purpose. The victim witness advocate will generally review your losses and submit them to

both the probation department and the prosecutor in a damage report. The victim also has the opportunity to address financial losses as part of the Victim Impact Statement made to the judge.

Restitution Through Plea Agreements

Although restitution is ordered at the sentencing stage, defendants often engage in plea negotiations early in the criminal process. Because so many cases are resolved through plea negotiations, it is helpful during these negotiations for the prosecutor to know if you intend to seek restitution. If you want restitution as part of a proposed plea agreement, you should ask the prosecutor to request that the judge establish a restitution payment schedule as part of the restitution order in the proposed plea agreement.

It is important to remember that restitution cannot be ordered by a judge on crimes for which offenders were not charged or convicted. If certain charges against a defendant are dropped through plea negotiations, it is possible that you may not receive restitution for losses connected to those specific crimes. However, the prosecutor may be able to negotiate full restitution as a condition of dropping certain charges in a plea agreement.

Restitution Hearings

If restitution is ordered by a judge, offenders are entitled to request and receive a restitution hearing. If the offender disagrees with the amount of restitution ordered by the judge at sentencing or by the probation officer following sentencing, or has other objections about the order, the offender must be granted a restitution hearing to dispute the issue. The hearing is limited to issues of restitution.

If such a hearing occurs, the prosecutor will ask you to submit proof of your damages if you have not already done so. Again, it is important to retain copies of all receipts and bills to document your losses and enable the judge to evaluate what expenses can be legitimately covered. You may be asked to testify at the restitution hearing.

Determining Restitution Orders

For those cases in which restitution is not arranged through a plea agreement, a defendant's ability to pay is evaluated in pre-sentence reports submitted to the judge by the probation department. A probation officer will present the offender's financial assets, employment history and current financial obligations, including other court-ordered fines and assessments. From these reports and the Victim Impact Statement documenting losses, the judge determines whether the offender has the ability to pay restitution for the amount of the victim's losses. If there are multiple offenders who are convicted of the crime, or if there are multiple victims who suffered financial losses and request restitution, the judge will determine the amounts and order of payment in any manner deemed appropriate.

If you are acquainted with the offender and have some information about the offender's assets, you may want to provide that information to the prosecutor or probation officer to help them assess the offender's true ability to pay. Such information may enable the judge to make a more informed appraisal of a defendant's assets rather than relying only on what the defendant claims.

Restitution Payments Schedules

Once restitution is ordered, the prosecutor is required by the **Victim Bill of Rights** to provide the victim with the

name and number of the probation officer assigned to supervise the offender. You are entitled to receive a copy of the offender's restitution payment schedule from the supervising probation officer. He or she is also responsible for making sure the offender pays restitution. Offenders make their payments to the probation department, which is responsible for sending you the restitution check. Offenders do not send payments directly to victims. To help ensure receipt of checks and hearing notices, you should keep the supervising probation officer informed of your current address.

If you do not receive a scheduled payment, you should contact the probation officer who is supervising the offender and report it. The probation officer generally contacts the offender to determine whether or not the offender made the scheduled payment, or if there is some other problem. If the probation officer determines that the offender has an inability to pay, the offender can request a modification hearing to adjust the payment schedule. The U.S. Supreme Court has ruled that offenders who cannot reasonably pay restitution cannot have their probation revoked. However, if the probation officer determines that the offender *willfully* refuses to pay restitution, the probation officer may petition the court for a probation revocation hearing and the judge may revoke the offender's probation and order the offender to serve a sentence in jail. In practice, however, probation is seldom revoked for non-payment of restitution alone. Instead, the judge may extend the period of probation to give the offender more time to make restitution payments.

Modifications to Restitution Orders

If for some reason the offender cannot pay restitution as ordered, the offender is entitled to a restitution modification hearing in which he or she can ask the judge to dismiss, re-

duce or otherwise adjust a restitution order. If the offender seeks a modification, the probation officer supervising the offender is required under the **Victim Bill of Rights** to notify you of the hearing on the proposed modification. The **Victim Bill of Rights** also gives you the right to attend and be heard by the judge at the modification hearing.

Because restitution is imposed as part of the offender's criminal sentence, you are not allowed to request an increase in the amount of restitution at a restitution modification hearing -- even if you have incurred additional crime-related expenses. However, you may request that the judge extend the defendant's probation to allow for a longer period of time during which the offender can pay the restitution owed to the victim.

Civil Litigation

Over the past decade victim rights have become increasingly recognized by the civil justice system as well as the criminal justice system. Civil litigation has provided victims with a new avenue of financial relief from their physical and emotional injuries. As a victim, you may be able to recover your financial losses through a civil lawsuit against the perpetrator or a negligent third party.

Considering a Civil Lawsuit

There are several important factors to consider as you evaluate whether to pursue a civil lawsuit. The first determination you need to make is whether civil litigation is possible in your case and whether your case is solid enough to win. This is best done by consulting a private attorney. After a preliminary investigation of the facts of a case, an attorney

who is experienced in civil actions for victims can generally tell whether a prospective civil suit has legal merit and whether the victim is likely to be able to collect a civil judgment. If the legal basis for the lawsuit seems difficult to prove or there is little likelihood of collecting financial damages, it is unlikely that an attorney will take the case. Attorneys generally base these decisions on several issues, including:

- the nature and extent of the victim's injuries;
- the extent of the defendant's responsibility for the victim's injuries;
- the likelihood that a victim will heal from the injuries;
- the facts of the case;
- the financial resources of the defendant;
- the likelihood of collecting a judgment.

Beyond these legal and practical considerations, there are other concerns about the personal effects of the civil litigation process on victims which should be evaluated before deciding whether to file a civil lawsuit. The civil litigation process may prolong the period of time you will be involved in the court system. This is an important factor to consider, particularly if you have already been through lengthy criminal proceedings. The extensive civil procedures may require you to continue to re-experience events that were physically and emotional traumatizing. Moreover, if you have not come face to face with the offender in court because the offender was not previously charged or convicted, it may be difficult to confront the offender in civil proceedings.

Finding an Attorney

While increasing numbers of attorneys are gaining experience in representing crime victims in civil proceedings, the number of attorneys with actual experience, sensitivity and

specialized knowledge of crime victims' problems is still relatively small. In Massachusetts, however, there is a growing core of experienced civil attorneys who represent crime victims in lawsuits. Although any licensed private attorney can file a lawsuit on your behalf, your case may benefit from the services of an attorney who has previously represented crime victims or has had substantial experience in representing other individuals in civil litigation for damages.

If you already have a personal attorney whom you trust or know someone who is an attorney, you can contact this person, describe your situation and ask for a referral. If this attorney cannot provide you with legal assistance, he or she should be able to help you locate another attorney who is qualified to work on your case. Sometimes other crime victims whom you may know through support groups can recommend a civil attorney who was helpful to them.

If you have questions about a particular attorney or need a referral, you may want to contact the county or local bar association listed in the telephone book. Bar associations can provide you with basic information about an attorney, such as his or her area of specialty, the location of the practice, and how long the attorney has been practicing law. Bar associations maintain general referral lists for attorneys and separate them according to practice specialties designated by the attorneys. You can also contact the National Victim Center's Crime Victim Litigation Project, which maintains a national list of civil attorneys who specialize in this area.

Choosing an attorney is a very personal decision and you should not choose one based only on another person's recommendation. You should not hesitate to meet with several attorneys before selecting one. If you are uncomfortable

with an attorney or do not have confidence in the advice or responses given to you, you should “get a second opinion” from another attorney. You can also ask a prospective attorney for the names of other crime victims he or she has worked for to call as a reference. However, the attorney may need to get permission from that person before giving you contact information. In addition, you may want to ask a prospective attorney the following questions:

- How long have you been practicing law?
- What is your education and professional experience?
- Have you ever worked with crime victims before?
- Have you handled similar cases? If so, how many?
- What kinds of judgments or settlements have you been able to obtain for clients with similar cases?
- Do you have any prior experience working as a prosecutor or a criminal defense attorney?
- Who will be working on my case -- you or other attorneys in your firm?
- Do you provide case status reports? If so, how often?
- Do you maintain malpractice insurance?
- What fees and expenses will I be charged, and when?

Most private attorneys who specialize in victim-related cases work on a contingency fee basis. This means that if the attorney accepts the case and you are not successful in recovering civil damages, you are not required to pay attorney fees; the fee is contingent upon winning a recovery from the defendant. However, you may be required to pay for the attorney’s out-of-pocket expenses related to the case, such as the costs of obtaining expert witnesses, court filing fees and deposition and photocopying costs. If your lawsuit is successful, the attorney will receive a percentage of the settlement, usually between 25-40%, for their fees. Because contingency arrange-

ments vary, you should be sure that you fully understand the details of any agreement or other contract before signing it. As a practical matter, few attorneys will agree to represent you if they do not believe there is a likelihood that they can collect a judgment. An experienced civil attorney will know how to identify an offender's assets and will seek to preserve them pending the outcome of a civil case.

Advantages and Disadvantages of Civil Litigation

As a means of financial recovery, a civil lawsuit by a victim has particular strengths and weaknesses. On the positive side, a victim is the plaintiff in a civil case and has much greater involvement and decision-making authority over the case. Many victims find this can be an empowering experience and helps them to regain a sense of control in their lives. Another benefit of civil litigation is that a victim may seek compensatory damages for the full amount of the injuries or losses due directly or indirectly to the crime, including property losses, pain and suffering, and projected loss of future earnings. By comparison, victim compensation awards are limited to \$25,000 and restitution is limited to what the offender can pay. Furthermore, a civil judgment is enforceable for a significant period of time and can be enforced through additional means.

One benefit of civil litigation is that, in addition to the offender who harmed you, you may also file suit against an individual, business, government or other organization whose negligence may have contributed to the attack. Some victims do not like the idea of holding a third party responsible for the offender's criminal conduct, but lawsuits against third parties can help to promote greater safety in addition to providing an alternative source of recovery for victims who might be unable to collect judgments directly from offenders. Many

victims also feel gratified that the civil justice system holds offenders and negligent third parties accountable for their actions, and that taking them to court helps to reinforce the importance of victim's rights.

Another clear advantage of civil actions as a means of recovery is that you may be able to file suit regardless of whether an offender has been apprehended, charged or convicted. Lawsuits against negligent third parties do not always require the identification of an offender. Further, the fact that there has not been a conviction or formal charging in a criminal case does not necessarily mean that a victim is prevented from filing a civil action against the offender or a negligent third party because the standard of proof is higher in criminal cases.

The major drawback to civil litigation is that the lawsuit may be expensive and time-consuming and may not be successful. Although most successful cases end in a settlement before trial, there is no guarantee that a jury will find an offender or third party liable for damages. Moreover, many victims have discovered that obtaining a judgment for damages in a civil case does not automatically mean that they will collect that judgment. One obstacle for victims is that many offenders or liable third parties are "judgment proof." This means that they do not have enough money or other assets to satisfy the judgment. Although some victims perceive a civil judgment to be a moral victory in itself, others who need to collect the judgment in order to pay crime-related expenses have had difficulty in realizing the monetary benefits of the judgment.

Although a positive outcome of a civil action may be extremely gratifying, the procedures involved in a civil lawsuit

can be very stressful for a victim. A civil lawsuit may require you -- possibly just after having undergone the rigors of the criminal justice system -- to initiate further involvement with the offender and the court system. Moreover, a defendant's attorney has wide latitude in questioning you in preparation for the civil trial. The defense may question you about personal information in a civil proceeding that was not "discoverable" or relevant in a criminal trial. If you are basing part of your lawsuit for damages on the emotional distress caused by the crime, you may be required to release your prior and current psychiatric or counseling records and other confidential information to the defense in a civil proceeding. The kinds of questions that you may be asked by the defense attorney may be extremely personal in nature and require you to discuss your involvement in and reaction to the crime. However, victims of sexual crimes can ask the judge to allow them to file a civil suit under an assumed "Jane Doe" name to conceal their identity from the public.

A final point to consider is that if you are awarded damages in a civil suit against a negligent third party, the jury may provide for a percentage reduction of that award based on how much the jury perceived the victim to have "contributed" to the crime. Although this reduction is a recognized practice in civil litigation in general, it may seem unfair to someone who was hurt as a result of another person's criminal conduct.

Criminal vs. Civil Cases

In considering a civil case, you should be aware of the similarities and differences between the criminal and civil justice systems. A civil action for damages is wholly separate from the criminal case in which the victim may be involved, and can be pursued regardless of the result in a criminal case. The criminal justice system's prohibition against double jeop-

ardly, which bars a defendant acquitted in a criminal proceeding from being tried again for the same crime, does not extend to the civil justice system.

One major difference between the criminal and civil justice systems is the different legal standards for proving a case. Criminal defendants must be proven guilty beyond a reasonable doubt, or to a moral certainty. Because the standard of proof in criminal cases is so high, some defendants who are truly guilty of committing a crime may be acquitted. In civil cases, however, victims need only prove their cases by a preponderance of the evidence, which means that it is more likely than not that the defendant caused harm to the victim. A jury in a civil trial may find the offender responsible for committing the crime even though the jury in the criminal case returned a not guilty verdict against the same offender. Moreover, if an offender was acquitted in a criminal proceeding, he or she cannot introduce the acquittal as evidence in a civil trial because it only represents a determination that guilt was not proven beyond a reasonable doubt. In addition, the decision of the jury in a criminal case must be unanimous, but only 10 of 12 jurors must agree to the decision in a civil case.

Another major difference between criminal and civil cases concerns the structure of the case and the parties involved in the proceedings. In the criminal system, the two parties in the case are the Commonwealth, which is the plaintiff, and the person accused of the crime, who is the defendant. The victim is not a formal party and the prosecutor does not formally represent the victim in the legal proceedings. The prosecutor -- not the victim -- determines whether to prosecute, what legal strategy to use, whether to negotiate a plea, and what sentence to recommend. While the initial charges against the offender may have resulted from the crime com-

mitted against a victim, the prosecutor pursues the criminal case on behalf of the Commonwealth against the offender. The victim's primary function in a criminal proceeding is as a witness. By contrast, the victim is the plaintiff in a civil case and the offender or another liable third party is the defendant. The victim decides to initiate a civil action and controls other major decisions affecting the case, such as whether to accept a settlement offer.

Potential Conflicts Between Civil and Criminal Cases


One potential conflict in filing a civil suit for victims involved in criminal proceedings is the length of time involved in resolving most criminal cases. Massachusetts has a time limitation of 3 years in which a victim must bring a civil action for damages against an offender or third party. This is called the "statute of limitations." Few criminal cases involving serious crimes against a person are concluded within a year, and some cases involve separate trials for multiple offenders, which prolongs a victim's involvement with the system. Such extensive involvement may conflict with the victim's need to file suit before the statute of limitations expires. There are exceptions to this limitation for minor victims and victims who did not discover the damage caused by the crime until a later date. If criminal proceedings have not concluded and you intend to file a lawsuit, you should inform the prosecutor handling your case as soon as possible and discuss the possible effects a civil suit may have on the criminal trial. The civil case needs only to be filed -- not concluded -- within three years of the date of the crime.

Unless the statute of limitations is about to run out, it is generally a good idea to wait until the criminal proceedings have concluded before deciding whether to initiate a civil action. Sometimes the fact that a victim is pursuing a civil ac-

tion against an offender may be used in court to undermine his or her credibility in a criminal proceeding because the victim is perceived to have a monetary motivation against the offender. In addition, victim credibility may be further undermined if a victim's statements in a civil trial are slightly different from what is said in a criminal trial. Either of these situations could jeopardize the chances that an offender will be convicted in the criminal trial. On the positive side, if the offender is convicted or pleads guilty in a criminal case, that outcome establishes the offender's liability in a civil action, which means the only remaining issue to be decided in the civil case is the victim's damages.

CHAPTER FOUR

Trauma and Recovery

hen someone becomes the victim of a violent crime, the emotional response that accompanies victimization can be overwhelming. The knowledge that another person has deliberately violated you or a loved one can be devastating and extremely difficult to comprehend. The questions of why the crime happened and why it happened to you may be impossible to answer. Crime leaves an emotional imprint on victims' lives that may linger for years, and the different forms of violence often add their own unique dimensions to the trauma. For example, murder causes the irrevocable loss of a human life while imposing a particularly cruel grief on the victim's surviving family members. Rape victims, in addition to the horrifying assault on their bodies, may suffer a profound loss in their sense of safety, freedom and trust in the world. Sexually abused children, after losing their right to childhood's innocence, are often plagued by feelings of shame and insecurity.

Even with strong family support and the commitment of the criminal justice system, most victims of violent crime experience a difficult period of adjustment in the wake of victimization. Emotional and psychological reactions are different for every victim, and there is no right or wrong way to heal. No guide or person can give simple answers to a victim's most difficult questions in the aftermath of crime: Why did this person do this to me? When will I stop thinking about the crime? Why do I still feel so upset? When will I stop hurting?

Although healing cannot be shortcut or reduced to a simple formula, the healing process can be supported. To help you understand and cope with the emotional impact of violent crime, this chapter explores some of the common responses to crime-related trauma, gives an overview of mental health counseling available to victims, and provides information on victim advocacy and related resources for you to consider as part of your healing process. Although people are often powerless in preventing their own victimization, many victims are remarkably powerful in recovering from the effects of violent crime.

Emotional Effects of Participating in the Justice System

Crime victims become involved in the criminal justice system by misfortune, not choice. As a result, participating in the criminal justice system is a very difficult emotional event for most crime victims. For some victims, the emotional reaction to victimization can be complicated by their involvement with the justice system. Because so much of the criminal process is beyond the victim's control and requires the victim to re-live what happened, many victims feel the process prolongs feelings of victimization and are unable to begin healing until the criminal proceedings have concluded. In addition, being notified of an offender's release from prison or other changes in an offender's custody status may trigger new emotional reactions in victims and survivors or exacerbate unresolved trauma from the crime.

Despite these stresses, many victims also feel empowered and gratified by their participation in the criminal justice system. Pressing charges against an offender, assisting in the prosecution of the case, and bringing the offender to justice for his or her criminal actions can be courageous first steps in a person's recovery from victimization.

Post-Traumatic Stress

Many victims of violent crime and the survivors of homicide victims, in addition to suffering physical and financial injuries, normally experience some post-traumatic stress in the form of immediate and/or prolonged emotional reactions as a result of victimization. Being the victim of a violent crime can trigger powerful, raw emotions in a person. Many victims have fantasies of revenge against the person who harmed them or a loved one. Rage, sadness, fear, apathy, regret, guilt, disbelief, depression and confusion are some other feelings victims commonly have about what happened. There is no set order in which these feelings may arise. You may experience some or all of these feelings, which can vary tremendously in degree and intensity. It is important for you to keep in mind that *these are normal responses to an abnormal event.*

Post-traumatic stress is usually identified by its symptoms. These symptoms include, but are not limited to:

- a re-experiencing of the trauma through flashbacks;
- intrusive thoughts or dreams;
- feelings of shock, disbelief or withdrawal;
- an overwhelming feeling of powerlessness;
- sleep disturbances;
- impaired memory and concentration;
- changes in eating habits;
- hyper-alertness or an exaggerated response when startled;
- avoidance of events related to or discussion of the crime;
- a sense of guilt about surviving or persistent fear that something bad will happen.

Psychologists who specialize in trauma have identified general patterns of response to crime for victims, but each individual will also have a unique response to what happened

based on the circumstances of the crime and the victim's personal resources. For instance, the age or developmental stage of the victim and the relationship of the victim to the offender will influence the response. The severity, frequency and duration of the crime and the effectiveness of the victim's support network of family and friends will also influence the response. While some victims are able to resolve the emotional issues surrounding victimization in a relatively short period of time, others may suffer for years.

Sometimes victims of violent crime become isolated from their family and friends because they think that no one understands what they are going through emotionally. Victims often feel a strong need to vent about the crime and their involvement in the court process, and sometimes have a tendency to talk about what happened over and over again. Although this is a normal response, friends and family members may be uncomfortable discussing the crime or your feelings about it, or they may perceive that kind of behavior as "dwelling on it" and distance themselves from you. In most cases, these reactions in friends and family arise because they do not understand what you are going through, find it upsetting to even imagine something like that happening to themselves, or simply feel that they do not know what to say or do to help you. It is important to remember that people do care, even if they may not know how to express those feelings in the way that you need.

For many crime victims, searching for reasons about why the crime happened, and why it happened to you or a loved one, is a natural reaction to the emotional pain of the tragedy. Under such circumstances, you may blame others or even yourself for what happened in addition to the offender who caused the crime. In an attempt to make sense of what hap-

pened and to regain a sense of control in their lives, many victims question what they or the criminal justice system might have done differently to have prevented the crime. Although such questioning is normal, it is important to remember that no one chooses to be a victim.

Mental Health Counseling

Because the emotional response to crime can be so intense and isolating, many victims choose to enter counseling to help them sort through their feelings about the crime and regain a sense of control in their lives. Many victims find that they cope better when they have someone to talk with about their thoughts, feelings and fears. Because the deliberate nature of violent crime can cause a victim to mistrust other people, counseling can be an effective way to help a victim re-establish a trusting relationship with another person. Although being a crime victim can shatter personal beliefs about the world and oneself, counseling has helped many victims to “pick up the pieces,” reflect on their lives, and rebuild a meaningful sense of the future.

Healing from victimization is a delicate, highly personal process. Depending on a victim's needs, preferences and stage of healing, counseling can be done on an individual basis, with an entire family, with a couple, or in a group setting with other victims who have had similar experiences. Counseling on an individual basis enables victims to address how they feel about what happened to them in relation to their life history and in a style and pace that fits their unique needs. In addition to the impact it has on the individual victim, crime can also impact the life a couple or family has together. For example, a woman who is raped may have difficulty relating to her partner after the crime, or the family of a homicide victim may be unable to express what the loss of the person means to the

family. In such situations, couples or family counseling may be appropriate.

Sometimes a group counseling setting can be beneficial if a person feels isolated by having been victimized. Because many people do not understand what a victim goes through, or feel that a victim should “just get over” or “forget about” the crime, the sense of isolation caused by the crime may be compounded. Participating in group counseling or support groups with other survivors of the same crime may help you to connect with other people dealing with similar issues, to hear how they are handling them, and to feel less alone.

You may be uncertain whether counseling could really help you deal with the crime, or you may feel uncomfortable or embarrassed by the idea of needing to talk to a mental health professional. These are common reactions to the idea of going to therapy. If you have these concerns, you can discuss them with your victim witness advocate before you make a decision about therapy. You can also discuss them openly with any therapist you may be considering. You can ask for an initial consultation to help you determine whether there is a good fit between you and a particular therapist. Although some therapists will charge for this consultation, many therapists do not.

Finding a Therapist

If you decide to enter counseling to help you deal with the emotional and psychological impact of the crime, there are several things you should be aware of before selecting a therapist. Choosing a qualified therapist is one of the most important decisions a crime victim can make in the recovery process. If you are uncertain about where to go for therapy, your victim witness advocate may be able to provide referrals to coun-

seling programs for victims or to therapists specializing in trauma-related issues.

If you prefer to find a therapist on your own, you have every right to “interview” therapists. The backgrounds of therapists can vary widely; some are psychiatrists or psychologists, others are social workers or mental health counselors. You should ask all therapists you may be considering what kind of training and education they have had, whether they are licensed, and whether they have had prior experience working with people facing the same issues you are. A good therapist will be happy to answer these questions for you.

You should also ask a prospective therapist what kind of therapy he or she practices. There are many kinds of therapy and treatments, working styles and areas of specialization. Although many therapists are qualified to provide effective counseling in general, there are some therapists who do not have sufficient training or clinical experience with the unique needs of crime victims. For instance, while many therapists may be trained to help a client work through issues of grief and loss, few have experience dealing with the additional complexities of grief in homicide cases. Because of the complications often caused by victimization, it is important that the therapist you see has had prior experience dealing with trauma issues.

Paying for Mental Health Counseling

In selecting a mental health professional, you should always ask prospective therapists about their fee structures. Many therapists are willing to provide their services on a sliding fee basis or to defer billing if you cannot presently afford their rates. The cost of mental health counseling varies depending on the type of counseling provided, but most thera-

pists usually set their fee schedules according to hourly or fifty minute schedules.

If you have private insurance or belong to a health maintenance organization (HMO), you should ask what the payment limitations are for mental health counseling and find out whether the therapist accepts your insurance or is a designated provider covered by your HMO. If your HMO does not have a therapist who specializes in crime-related trauma, you should inquire whether the policy of your HMO will allow you to choose out-of-network providers. Many HMO mental health guidelines require the victim to pay a higher co-payment in such situations. These co-payments can be reimbursed by the state if you qualify for benefits through the Victim Compensation Program.

If you are seeking Victim Compensation to help defray the costs of crime-related counseling, you should be aware of the mental health guidelines governing the state program. Compensation is only provided for mental health counseling expenses incurred *as a direct result of the crime*. No compensation is awarded for pre-existing mental health conditions unless they have been exacerbated by the crime. In addition, your therapist must be licensed to practice by one of the state boards for medical doctors, psychologists, social workers or allied mental health professionals, and the fees charged must be within the range of normal and customary rates for the services provided. Finally, although there are no dollar or time limitations on the amount of counseling for which a victim can be compensated beyond the \$25,000 limit per victim, the Victim Compensation Program may require the victim's therapist to submit a mental health treatment plan as a condition of further payment if the crime-related treatment becomes extensive.

VOCA Programs

The federal Victims of Crime Act (VOCA) program helps support free or low cost services to victims across the country. In Massachusetts, VOCA-funded programs provide specialized services to victims of sexual assault, victims of domestic violence, physically and sexually abused children, survivors of homicide victims, refugee victims, victims of extreme and multiple trauma, victims of hate crimes, and communities which have experienced crisis due to crime. Funded services include crisis intervention, short and long term counseling, legal advocacy, support groups, and community crisis response.

This funding from the federal government is administered by the Massachusetts Office for Victim Assistance and is distributed as grants to community-based non-profit agencies which provide the services across the state. The programs exist to respond to the immediate needs of crime victims, reduce the severity of the psychological consequences of victimization, help restore a victim's sense of dignity and self-esteem, and assist and encourage victims to participate in the criminal justice system. Some programs may have waiting lists for victims wanting to participate in support groups or individual counseling. (*See appendix for listing of VOCA-funded victim assistance programs.*)

Victim Activism

In the aftermath of crime, many victims become involved in the victim rights movement to strengthen the rights of victims in the criminal justice system, to push for new laws to convict and punish offenders, and to promote violence prevention efforts in their communities. The victim rights movement in Massachusetts has an active network of grassroots organizations, such as Parents of Murdered Children, Save Our Sons and Daughters, Mothers Against Drunk Driving, and many

others. The lobbying efforts of these groups were critical to the passage of recent legislative reforms, including the Victim Rights Law of 1995, the Truth in Sentencing Law, the Victim Compensation Reform Law and the Omnibus Drunk Driving Law. Taken together, these laws have produced major changes in the way the criminal justice system in Massachusetts responds to issues affecting crime victims on a daily basis.

Many victims find that getting involved with grassroots organizations helps them to connect with other crime victims who can empathize with their situation while doing something positive for their community. The changes that can be achieved through legislative and community activism may ultimately help to prevent someone else from becoming a victim. Activism has helped many victims regain a sense of control and meaning in their lives, which is often damaged as a result of crime. However, sometimes victims who become activists overlook their own needs in their desire to help others. If you want to become involved as a victim rights activist, it is important that you take care of your own emotional needs before you try to help others.

Victim Rights Week Commemoration

For the past decade, the last week in April has been designated “National Victim Rights Week.” During this week, crime victims and their families, victim advocates, victim service providers and others in the criminal justice system organize a variety of activities to commemorate those who have been killed or injured by violent crime and to generate public awareness on the impact of violence on society.

As part of Victim Rights Week in Massachusetts, MOVA sponsors an annual Victim Rights Conference at the State House in Boston. The day-long conference is free and open to

the public. It is usually attended by more than 500 individuals, many of whom have been victims of crime or lost a family member as a result of violence. The conference features an annual keynote address by a victim speaker, workshops on victim issues, and exhibits by victim organizations. The conference provides an opportunity for victims to meet each other, to learn about the community resources available to them, and to support victims' rights. If you are interested in attending the conference in future years, you should contact MOVA by early April.

From Victim to Survivor

As you begin your healing process, it is important to remember that the journey from victim to survivor is not an easy, quick or familiar one. For many people, life is simply not the same after experiencing the effects of violent crime, other people's reactions to the crime, and the criminal justice process. The foundations upon which people understand who they are and how the world works can be shaken in the aftermath of crime. Relationships with other people, society and oneself may have shifted in unexpected, unexplainable ways.

Rebuilding those foundations and getting to a point where you feel hopeful about the future may seem like incredibly difficult tasks. It is important to remember that grieving takes time and energy, and healing requires the courage to move one's life in a new direction. It is our sincere hope that the information and resources provided in this book will help you along that journey.

GLOSSARY

Legal and Criminal Justice Terms

Accomplice: a person who knowingly and voluntarily aids, assists, cooperates or is an accessory with the principal offender in the commission of a crime.

Acquittal: the legal and formal determination that the evidence is not sufficient to prove that a person who has been charged with a crime actually committed it.

Adjudication: the determination or decision made by the court, usually resulting in a judgment of acquittal or a judgment of conviction.

Admission to Sufficient Facts: an acknowledgment on the part of the accused admitting that there is sufficient evidence to warrant a finding of guilty.

Appeal: a request to a higher court to review the decision of a lower court.

Arraignment: the initial court appearance of the accused which is held for the purpose of reading the complaint or indictment against the accused, having the accused enter a plea to the charges, and setting bail and other release conditions.

Arrest: the apprehension or detention of an individual by legal authority for the purpose of charging him or her with a specific offense.

Assistant District Attorney: a lawyer for the Commonwealth who represents the interests of the general public (also known as the *prosecutor* or *ADA*).

Attorney-Client Privilege: a professional relationship between an attorney and a client which prevents the attorney from disclosing the content of communications with his or her client without the client's consent.

Bail: an amount of money or property sometimes required by a judge to be paid to the court by the defendant to insure future attendance in court.

Bench Trial: a trial held before a judge without a jury.

Boston Municipal Court (BMC): the part of the Massachusetts Trial Court which has jurisdiction over certain cases originating within the downtown Boston area.

Burden of Proof: a legal standard which establishes the amount of evidence that must be met for proving a case. The burden of proof in criminal trials requires prosecutors to prove beyond a reasonable doubt that a defendant is guilty of the alleged crime. The burden of proof in civil trials requires plaintiffs to prove their case by a preponderance of the evidence, which means that it is more likely than not that the facts alleged by the plaintiff occurred.

Case Law: the area of law where legal precedent has been created by earlier published court decisions. This law is distinct from the Constitution, state and federal statutes or administrative regulations but often interprets them.

Cause of Action: the legal basis for a civil lawsuit brought by one party against another, such as the victim against the offender.

Change of Venue: the transfer of a case from one court to another having the same authority but in a different geographic location.

Civil Action: a lawsuit to enforce private rights, to obtain compensation for a violation of those rights, or to recover monetary damages. A civil action is brought directly by the person who is complaining, usually with the help of a private attorney. Civil actions are all types of actions which are not criminal proceedings.

Co-defendant: one of two or more persons charged in the lawsuit or tried in the same criminal proceedings.

Commutation: an act of the Governor, with the assent of the Governor's Council, changing a sentence imposed for a crime to a less severe punishment after a formal request from the offender.

Competency: a determination that a defendant has sufficient mental capacity to stand trial and to assist defense counsel in the defense of the charges.

Complaint: a formal written document submitted to the court to formally initiate a civil or criminal proceeding.

Concurrent Sentence: a criminal penalty consisting of two or more sentences of any type which are to be served simultaneously.

Consecutive Sentence: a criminal penalty consisting of two sentences which are to be served in sequence, with one to begin when the other has been completed.

Contempt of Court: the willful failure to obey a court order or the showing of disrespect or unacceptable behavior in the presence of the court.

Continuance: a postponement of a scheduled court event until a future date.

Continued Without a Finding (CWOFF): a procedure by which, after accepting an admission of sufficient facts from a defendant, or finding after trial that there are sufficient facts to support a finding of guilt, the court does not enter a guilty finding, but rather continues the case for a period of time. At the end of that time, if the defendant has not further violated the law and has met the conditions of the continuance, the charge is dismissed.

Conviction: the result of a criminal trial which ends in a verdict or finding that the defendant is guilty.

CORI: Criminal Offender Record Information.

CORI Certification: a process by which a victim of crime or other citizen becomes eligible to receive certain information about a convicted offender.

Court Order: the decision of a judge on any motion or request by which a particular outcome is granted.

Court Record: official record of court decisions in a particular case.

Cross-Examination: a part of a trial when questions are asked of a witness by the opposing counsel, following the direct examination, usually in the form of leading questions.

Defendant: a person who is formally charged with committing a crime or, in a civil case, a person against whom an action is filed for monetary damages or to enforce other rights.

Defense Attorney: the attorney representing the defendant in criminal or civil proceedings.

Depositions: pre-trial proceedings in which attorneys for parties in a civil case have the opportunity to question, under oath, the opposing parties and potential witnesses in the case.

Direct Examination: a part of a trial when questions are asked to a witness by the attorney who called that witness to testify.

Dismissal: the formal decision to terminate a court action.

Dismissal with Prejudice: a judge's decision to terminate the prosecution of a pending charge in a case after which the same criminal charge cannot be brought against the defendant again at a later date.

Dismissal without Prejudice: a judge's decision to terminate the prosecution of a pending charge in a case but which does not prevent the prosecution from bringing the same criminal charge against the defendant in the future.

Discovery: pre-trial process by which both parties seek and obtain the disclosure of facts and evidence about the case from the other.

Disposition: the outcome of a criminal case, usually referring to the sentence imposed.

District Attorney: an elected public official in each county who prosecutes crimes on behalf of the Commonwealth.

District Court Department: the part of the Massachusetts Trial Court which has jurisdiction over all misdemeanor criminal offenses and certain felony criminal offenses, except for parts of Boston over which the Boston Municipal Court has jurisdiction.

Docket: the calendar of court cases awaiting action on a particular day; also refers to the books in which all official court action on a case is recorded.

Double Jeopardy: the constitutional prohibition against a person being tried twice for the same offense.

Due Process: the constitutional guarantee that legal proceedings will be carried out according to basic rules of fairness established for the protection of an individual's rights.

Earned Credits: a specified period of time which is earned by incarcerated offenders by successfully participating in rehabilitative programs operated by correctional facilities, and is applied as a reduction in the amount of time an offender is to be incarcerated.

Evidence: any type of admissible information presented before a court that relates to or establishes a point in question, the use of which is dictated by the laws and rules of evidence.

Exhibits: any document or other physical item offered and admitted in evidence at trial.

Expert Witness: a specialist in a particular subject matter whose

training and expertise is sought at trial to provide information and opinions on a contested issue and who is approved as an expert witness by the judge.

Finding: the formal decision of “guilty” or “not guilty” made by a judge upon completion of the trial.

Felony: a criminal offense deemed to be of a more serious nature and punishable by stiffer penalties, including a sentence to state prison.

Furlough: the temporary release of an inmate from a correctional institution for a brief period. Inmates convicted of first degree murder are not eligible for furlough releases.

Grand Jury: a group of 23 citizens whose duty is to receive complaints and hear evidence in criminal cases as presented by the prosecutor and decide whether that evidence is sufficient to charge an individual with a crime by issuing an indictment.

Hearing: a court proceeding in which evidence and arguments on a particular legal issue are presented to a judge.

Hostile Witness: a witness who is antagonistic and adverse to the party who called the person to testify and, therefore, may be questioned by the use of leading questions.

House of Correction: a county correctional facility run by the county sheriff to house defendants awaiting trial and those convicted offenders who are sentenced to shorter terms or for crimes which the law determines to be less serious.

Hung Jury: a jury in a criminal case whose members cannot agree unanimously as to whether the defendant should be found guilty or not guilty. The case may be retried at a later date with a new jury.

Incident Report: a police officer’s written report of a police response to a reported crime.

Indictment: a formal written statement issued by a grand jury concluding that there is sufficient evidence to charge a person with committing a crime.

Injunction: a court order directing one or more persons to refrain from doing specified acts.

Insanity Defense: a criminal defense which is based on the theory that a defendant suffered such a degree of mental impairment that he or she was unable to understand the nature and consequences of his or her criminal actions.

Judge: a public official appointed to preside over legal proceedings and decide questions of law brought before the court. The judge may also be the trier of fact in a jury-waived trial.

Judgment: the final decision of the court in a given case resolving legal questions.

Jurisdiction: the subject matter and geographical range of a court's authority to hear a particular issue.

Jury: a panel consisting of a statutorily defined number of citizens selected according to law and sworn to hear evidence and decide matters of fact in a criminal or civil action and to render a verdict in such action.

Juvenile Court Department: the part of the Massachusetts Trial Court which has jurisdiction over cases of delinquency, children in need of services (CHINS) and Care and Protection petitions.

Juvenile Delinquent: an individual under the age of 17 who has been found to have violated a criminal law.

Leading Question: a question asked by an attorney of a witness which offers information and requires a yes or no answer. Leading questions are permitted only by opposing counsel during cross examination, or of a witness who has been declared a hostile witness during

a direct examination.

Mandatory Sentence: a type of sentence which by statute requires that a fixed penalty shall be imposed upon conviction for certain crimes and does not allow a judge discretion in sentencing.

Mediation: a process by which a trained facilitator assists the conflicting parties in reaching a settlement.

Misdemeanor: a criminal offense considered by law to be less serious than a felony which may be punished by a house of correction sentence or a fine, but not by imprisonment in state prison.

Mistrial: a trial which is terminated by a judge prior to its normal conclusion because of circumstances which the judge has concluded prevent fair proceedings, or a trial ending in a hung jury.

Mitigating Circumstances: factors related to the commission of an offense or the offender which do not excuse a criminal act but which may reduce the severity of the sentence for that act.

Motion: an application to the court requesting that an order be issued to bring about a specific action.

No Contest/Nolo Contendere: a defendant's formal response in court in which it is stated that the charges are not contested and which, while not an admission of guilt, subjects the defendant to the same sentencing consequences as a plea of guilty.

Nolle Prosequi: the termination of court action by the prosecutor's decision not to pursue the case.

Objection: opposition by either of the parties to some proceeding or evidence in the course of a case on the grounds that what is objected to is illegal or improper. Objections are used to call the court's attention to improper evidence or procedure. Objections are usually made in open court so that they will appear on the record if there is an appeal.

Overruled: the judge's denial of any objection raised to the judge. If an objection to a question is overruled, the judge allows the question to be answered and the evidence objected to is admitted for the jury's or judge's consideration.

Pardon: an act of the Governor releasing a prisoner from serving the remainder of a sentence.

Parole: the conditional release of an offender from a house of correction or prison prior to completing the sentence imposed, under the supervision of a parole officer, which is granted at the discretion of the Parole Board and subject to its own rules and certain state statutes. Specific conditions can be placed on an offender's conduct while on parole.

Parole Board: the state agency authorized to determine whether and under what conditions an eligible offender should be released on parole to serve the remainder of his or her sentence in the community. The Parole Board also makes recommendations to the Governor on the merits of petitions for pardons and commutations, supervises all those released on parole, and revokes parole permits for violations of parole conditions.

Parole Officer: an employee of the Parole Board whose responsibility it is to supervise offenders throughout their parole period.

Peremptory Challenge: removal of a prospective juror without stating a reason. The number of such challenges permitted to the prosecution and the defense is limited, and challenges are not allowed if they are part of an effort to exclude based on race, sex, national origin or other discriminatory factors.

Personal Recognizance: a pre-trial release in which the defendant signs a promise to appear in court whenever notified to do so, but does not pledge anything of value to be forfeited upon non-appearance on a court date.

Plaintiff: the party which brings suit or complaint in court.

Plea Agreement: an admission in court by the defendant to some or all of the charges, based on an agreement that the prosecutor will make a certain sentence recommendation. If the defendant enters a guilty plea, there is no need for a trial.

Presentence Report: a report completed by the probation officer and submitted to the judge before the sentencing of a defendant. The report is based on an investigation by the probation officer into the defendant's background, the circumstances of the crime and information supplied by the victim.

Presumption of Innocence: a fundamental principle of law which assumes that the defendant is innocent of the offense charged, and requires that the prosecution prove the guilt of the defendant beyond a reasonable doubt.

Pretrial Conference: a meeting, before trial, between the prosecutor and the defense attorney. During this meeting the attorneys may discuss the merits of the case, exchange discovery information, and possibly work out a plea agreement.

Privileged Communications: statements made by persons with a certain relationship to each other, such as husband/wife, priest/ penitent, attorney/client and doctor/patient, which by law either do not have to be disclosed, or may not be disclosed.

Probable Cause: a set of facts or circumstances which would indicate to a reasonable person that an offense was committed by a particular individual.

Probable Cause Hearing: a court proceeding held before a judge to determine whether there is sufficient evidence to transfer the criminal case from District Court to Superior Court; Also, a court proceeding held before a judge or clerk magistrate to determine whether there is sufficient evidence to hold a defendant who was arrested without an arrest warrant until his or her arraignment.

Probation: a sentence whereby conditional freedom is granted by a

judge to a convicted offender. The offender is required to abide by established conditions or face a period of imprisonment.

Probation Department: a court agency whose primary functions include the investigation and supervision of individuals placed on probation by the court and the preparation of presentence reports to assist judges in determining the appropriate penalty.

Probation Officer: an employee of the probation department whose main responsibility is the supervision of a convicted offender who is not incarcerated.

Prosecutor: an attorney employed by a government agency whose primary responsibility is to conduct criminal proceedings against individuals accused of committing criminal offenses.

Public Defender: an attorney employed by a government agency to represent defendants who are unable to pay the costs of hiring an attorney; Also, term sometimes applies to a private attorney when appointed by the court to represent defendants who are unable to pay the costs of hiring an attorney.

Restitution: a condition of a sentence imposed by a court which requires the offender to pay for crime-related financial losses incurred by the victim because of the offender's crime, such as repair or replacement costs for damaged or stolen property.

Sentencing Guidelines: an instrument developed to indicate to judges a range of appropriate sentences for a particular offense.

Sequester: to set witnesses apart from the court proceedings so that they do not hear the testimony of other witnesses. Also, to set apart a jury during court proceedings and/or deliberations so that the jurors are not unduly influenced in reaching their verdict in a case.

State Prison: a correctional facility run by the Department of Correction to house convicted offenders who are sentenced to longer terms or for crimes which the law determines to be more serious.

Statute of Limitations: a law which sets forth the period of time within which a civil action or criminal prosecution must be started after the date of the crime or wrongful act.

Statutory Credits: a set amount of time that is automatically deducted from the amount of time an offender is to be incarcerated. This practice was discontinued for offenders convicted of crimes after July 1, 1994.

Subpoena: a court-issued written command to appear at a certain time to give testimony about a crime or other matter.

Superior Court Department: the part of the Massachusetts Trial Court which has jurisdiction over all crimes and generally exercises jurisdiction over the most serious felony matters (those carrying potential sentences of ten years or more in state prison).

Sustain: a judge's acceptance of any objection. If an objection is sustained, the evidence or conduct objected to will not be admitted for the jury's or judge's consideration.

Testimony: statements given under oath by witnesses as evidence in court.

Time Served: a period of time spent in confinement during the pendency of a case, prior to conviction and sentence, which is subtracted from the amount of time an offender is required to be incarcerated.

Transfer Hearing: a court proceeding in which a judge decides whether or not a juvenile between the ages of 14 and 17 should be prosecuted in the adult court system.

Trial: a legal proceeding consisting of an examination in court of the issues of fact and law in a case, for the purpose of reaching a judgment of conviction or acquittal of the defendant in a criminal case or the liability and damages caused by a defendant in a civil case.

Venue: a place from which a jury is drawn and in which a trial is held.

Verdict: the formal decision made by a jury upon completion of the trial.

Victim: one who has suffered as the result of the commission of a crime or some other wrong.

Victim Impact Statement: a written or oral statement made by the victim to the court at sentencing describing the physical, emotional and financial effects of the crime and recommending a sentence to be imposed on the offender.

Victim Witness Advocate: an individual employed by the prosecutor's office or other criminal justice agency to inform crime victims of their rights and available services and to assist them through the criminal justice system.

Voir Dire: a process of examining prospective jurors by prosecutors and defense attorneys through which persons who might be biased or incapable of rendering a fair verdict may be screened out of the jury pool.

Warrant: an order issued by a court which directs a law enforcement officer to arrest a person, search a location, seize an object, or do some other specified act.

Witness: someone who has personal knowledge of relevant circumstances of a case and who testifies under oath as to what has been seen, heard, or otherwise observed by that person.

Witness Fee: a token fee provided to victims and other witnesses to cover travel expenses for each day they are required to come to court or otherwise participate in a criminal proceeding.

THE VICTIM BILL OF RIGHTS

Massachusetts General Laws, Chapter 258B (excerpted)

§ 1. Definitions.

The following words as used in this chapter shall have the following meanings, unless the context otherwise requires:

"Board", the victim and witness assistance board as established in section four;

"Court", a forum established under the general laws for the adjudication of criminal and delinquency complaints or indictments;

"Crime", an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency;

"Disposition", the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;

"Family member", a spouse, child, stepchild, sibling, parent, step-parent, dependent, as defined in section one of chapter two hundred and fifty-eight C, or legal guardian of a victim, unless such family member has been charged in relation to the crime against the victim;

"Prosecutor", the attorney general, assistant attorneys general, district attorney, assistant district attorneys, police prosecutors, other attorneys specially appointed to aid in the prosecution of a case, law students approved for practice pursuant to and acting as authorized by the rules of the supreme judicial court, or any other person acting

on behalf of the commonwealth, including victim-witness advocates;

"Restitution", money or services which a court orders a defendant to pay or render to a victim as part of the disposition;

"Victim", any natural person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime or delinquency offense, as demonstrated by the issuance of a complaint or indictment, the family members of such person if the person is a minor, incompetent or deceased, and, for relevant provisions of this chapter, a person who is the subject of a case reported to a prosecutor pursuant to section eighteen of chapter nineteen A, sections five and nine of chapter nineteen C, and section fifty-one B of chapter one hundred nineteen, and the family members of such person if the person is a minor, incompetent or deceased;

"Victim-witness advocate", an individual employed by a prosecutor, the board, or other criminal justice agency to provide necessary and essential services in carrying out policies and procedures under this chapter.

"Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

§ 2. Services Not Limited to Victims of Crimes That are Prosecuted.

Prosecutors shall not be precluded from providing, subject to appropriation, services under this chapter to any natural person or family member of such natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime or delinquency offense in which complaints or indictments have not been issued.

§ 3. Rights of Victims and Witnesses of Crime.

To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family members of the victim, shall be afforded the following basic and fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:

(a) for victims, to be informed by the prosecutor about the victim's rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim's role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;

(b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim, unless the victim or family member is to testify and the court determines that the person's testimony would be materially affected by hearing other testimony at trial and orders the person to be excluded from the courtroom during certain other testimony;

(c) for victims and witnesses, to be notified by the prosecutor, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled, provided that such changes are known in advance. In order to notify victims and witnesses, a form shall be provided to them by the prosecutor for the purpose of maintaining a current telephone number and address. The victim or witness shall thereafter maintain with the prosecutor a current telephone number and address;

(d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive

protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including information relative to applying for such assistance or services;

(f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;

(g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions by the defense to obtain psychiatric or other confidential records, and before the filing of a nolle prosequi or other act by the commonwealth terminating the prosecution or before the submission of the commonwealth's proposed sentence recommendation to the court. The prosecutor shall inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation. The right of the victim to confer with the prosecutor does not include the authority to direct the prosecution of the case;

(h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court's approval of such request, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court, except among themselves, the residential address, telephone number, or place of employment or school of the victim, a victim's family member, or a witness, except as otherwise ordered by the court. The court may enter such other orders or conditions to maintain limited disclosure of the information as it deems appropriate to protect the privacy and safety of victims, victims' family members and witnesses;

(i) for victims, family members and witnesses, to be provided, subject to appropriation and to available resources, by the prosecutor with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant's family, friends, at-

torneys or witnesses, during court proceedings. The court shall, subject to appropriation and to available resources, designate a waiting area at each courthouse and develop any reasonable safeguards to minimize contact between victims and the defendant, or the defendant's family, friends, attorneys or witnesses;

(j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;

(l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who notifies his employer of his subpoena to appear as a witness prior to his attendance, shall not on account of his absence from employment by reason of such witness service be subject to discharge or penalty by his employer. Any employer or agent of said employer who discharges or disciplines or continues to threaten to discharge or discipline a victim or witness because that victim or witness is subpoenaed to attend court for the purpose of giving testimony may be subject to the sanctions stated in section fourteen A of chapter two hundred and sixty-eight;

(m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant's behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the interview;

(n) for victims, to confer with the probation officer prior to the

filing of the full presentence report. If the victim is not available or declines to confer, the probation officer shall record that information in the report. If the probation officer is not able to confer with the victim or the victim declines to confer, the probation officer shall note in the full presentence report the reason why the probation officer did not make contact with the victim;

(o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant's payments. If the offender seeks to modify the restitution order, the offender's supervising probation officer shall provide notice to the victim and the victim shall have the right to be heard at any hearing relative to the proposed modification.

(p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, pursuant to section four B of chapter two hundred and seventy-nine, and to be heard at any other time deemed appropriate by the court. The victim also has a right to submit the victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime;

(q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;

(r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject

to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;

(s) for victims, to be informed by the parole board of information regarding the defendant's parole eligibility and status in the criminal justice system;

(t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, whenever a defendant is moved from a secure facility to a less-secure facility, and whenever the defendant escapes from custody. The victim shall be informed by the prosecutor about notification rights and the certification process required to access the criminal offender record information files. Persons requesting such notice must provide the appropriate authority with current information as to their address and telephone number;

(u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.

§ 4. Victim and Witness Assistance Board; Powers and Duties.

There is hereby established a victim and witness assistance board, to consist of five members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A to the contrary, the board shall consist of the attorney general or his designee who shall be chairman, two district attorneys who shall be appointed by the governor, and two members of the public who shall be appointed by the governor, of whom one shall be a victim. The members of the board first appoint-

ed shall serve as follows: of the district attorneys appointed by the governor, one shall serve for three years and one shall serve for one year, of the members of the public appointed by the governor, one shall serve for three years and one shall serve for two years. The successor of each such member shall serve for a term of three years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the board shall be eligible for reappointment.

The board shall by majority vote of its members, appoint an executive director who shall serve, subject to appropriation, at such rate of compensation as the board directs for a term of three years unless removed for cause by a vote of four members of the board. The executive director, subject to appropriation, shall have the power to hire such staff, subject to the approval of the board, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him.

The provisions of chapter thirty-one shall not apply to the executive director or any employee of the board.

The board shall review and approve program plans, annual reports, and the implementation and operation of programs as described in this chapter. The board shall promulgate rules for the preparation and review of such programs and annual reports.

In addition to the foregoing, the board shall:

(a) have printed and shall make available to social service agencies, medical facilities, and law enforcement agencies, cards, posters, brochures or other materials explaining the victim and witness rights and services established under this chapter;

(b) assist hospitals, clinics and other medical facilities, whether public or private, in disseminating information giving notice of the rights established under this chapter. This assistance may include providing informational materials including posters suitable to be displayed in emergency and waiting rooms;

(c) assist law enforcement agencies in familiarizing all of their officers and employees with the crime victims' rights as provided under this chapter. This assistance may include supplying informational literature on this subject to be utilized as part of the training curriculum for all trainee officers; and

(d) assist all local law enforcement agencies in establishing procedures whereby expedient notification is given to victims and witnesses, as defined under this chapter, of the rights provided under this chapter. In municipalities which do not have a local law enforcement agency, the board shall establish procedures whereby it, in cooperation with the state police, shall give notice to victims of crimes as provided in this section.

§ 5. Programs to be Created by District Attorneys.

Each district attorney shall create and maintain, to the extent reasonably possible and subject to the available resources, a program to afford victims and witnesses of crimes the rights and services described in this chapter. Those services shall include but not be limited to the following:

- (a) court appearance notification services, including cancellations of appearances;
- (b) informational services relative to the availability and collection of witness fees, victim compensation and restitution;
- (c) escort and other transportation services related to the investigation or prosecution of the case, if necessary;
- (d) case process notification services;
- (e) employer intercession services;
- (f) expedited return of property services;
- (g) protection services;
- (h) family support services including child and other dependent care services;
- (i) waiting facilities; and
- (j) social service referrals.

BIBLIOGRAPHY

Recommended Readings For Victims and Survivors

The following publications and articles are available for reading by crime victims at the resource library of the Massachusetts Office for Victim Assistance in Boston. Some books may be made available on a loan basis with prior arrangements. If you would like to use the library, you must call ahead to schedule an appointment.

Victims: General

- Bard, Morton and Dawn Sangrey. *The Crime Victim's Book*. New York: Brunner/Mazel, Inc., 1986.
- Elias, Robert. *The Politics of Victimization: Victims, Victimology and Human Rights*. New York: Oxford University Press, 1986.
- _____. *Victims Still: The Political Manipulation of Crime Victims*. Newbury Park, CA: Sage Publications, 1993.
- Fattah, Ezzat. *Understanding Criminal Victimization*. Englewood Cliffs, NJ: Prentice-Hall, 1991.
- Figley, Charles, ed. *Trauma and Its Wake: The Study and Treatment of Post-Traumatic Stress Disorder*. New York: Brunner/Mazel, Inc., 1985.
- Fitzgerald, Tom. *Beyond Victimhood*. Minneapolis, MN: Fairview Press, 1995.
- Herman, Judith Lewis. *Trauma and Recovery*. New York: Basic Books, 1992.
- Janoff-Bulman, Ronnie. *Shattered Assumptions: Towards a New Psychology of Trauma*. New York: The Free Press, 1992.
- Karmen, Andrew. *Crime Victims: An Introduction to Victimology*. New York: Brooks/Cole Publishers, 1990.
- Kushner, Harold S. *When Bad Things Happen to Good People*. New York: Avon Books, 1981.
- Lurigio, Arthur J., Wesley G. Skogan and Robert C. Davis. *Victims of Crime: Problems, Policies and Programs*. Newbury Park, CA: Sage Publications, 1990.

- Morris, James E. *Victim Aftershock: How to Get Results from the Criminal Justice System*. New York: Franklin Watts, 1983.
- Neiderbach, Shelley. *Invisible Wounds: Crime Victims Speak*. New York: The Haworth Press, 1986.
- Ochberg, Frank M., ed. *Post-Traumatic Therapy and Victims of Violence*. New York: Brunner/Mazel, Inc., 1988.
- President's Task Force on Victims of Crime. *Final Report*. Washington, D.C.: U.S. Government Printing Office, 1982.
- Roberts, Albert. *Helping Crime Victims: Research, Policy and Practice*. Newbury Park, CA: Sage Publications, 1990.
- Smith, Steven Rathgeb and Susan Freinkel. *Adjusting the Balance: Federal Policy and Victim Services*. New York: The Greenwood Press, 1988.
- Van Ness, Daniel. *Crime and Its Victims: What We Can Do*. Downers Grove, IL: InterVarsity Press, 1986.
- Weed, Frank. *Certainty of Justice: Reform in the Crime Victim Movement*. Hawthorne, NY: Aldine de Gruyter Press, 1995.

Homicide/Bereavement

- Ajjan, Diana, ed. *The Day My Father Died: Women Share Their Stories of Love, Loss and Life*. Philadelphia: Running Press, 1994.
- Ascher, Barbara Lazaer. *Landscape Without Gravity: A Memoir of Grief*. New York: Penguin Books, 1993.
- Bouvard, Marguerite. *The Path Through Grief*. Portland, OR: Breitenbush Books, Inc., 1988.
- Danto, Bruce L., John Bruhns, and Austin H. Kutscher, eds. *The Human Side of Homicide*. New York: Columbia University Press, 1982.
- Donnelly, Katherine Fair. *Recovering From the Loss of A Child*. New York: Macmillan Publishing, 1982.
- _____. *Recovering From the Loss of A Parent*. New York: Dodd, Mead & Co., 1987.
- _____. *Recovering From the Loss of A Sibling*. New York: Dodd, Mead & Co., 1988.
- Edelman, Hope. *Motherless Daughters: The Legacy of Loss*. New York: Addison-Wesley Publishing Company, 1994.

- Fitzgerald, Helen. *The Mourning Handbook: A Complete Guide for the Bereaved*. New York: Simon and Schuster, 1994.
- Hoard, G. Richard. *Alone Among the Living: A True Story of an Adolescent's Grief Over His Father's Murder*. Athens, GA: Univ. of Georgia Press, 1994.
- Kaminsky, Alice R. *The Victim's Song*. Buffalo, NY: Prometheus Books, 1985.
- Kubler-Ross, Elisabeth. *On Children and Death*. New York: Collier Books, 1983.
- Lardner, George. *The Stalking of Kristin: A Father Investigates the Murder of His Daughter*. New York: Atlantic Monthly Press, 1995.
- Larson, Nancy A. *A Guide for Homicide Survivors: Preparing for the Days Ahead*. East Longmeadow, MA: John C. Otto Company, Inc., 1994.
- Lighter, Candy. *Giving Sorrow Words*. New York: Warner Books, 1990.
- Lord, Janice Harris. *No Time for Goodbyes: Coping with Sorrow, Anger and Injustice After a Tragic Death*. Ventura, CA: Pathfinder Publishing, 1990.
- Magee, Doug. *What Murder Leaves Behind: The Victim's Family*. New York: Dodd, Mead & Co., 1983.
- Redmond, Lula Moshoures. *Surviving When Someone You Love Was Murdered*. Clearwater, FL: Psychological Consultation and Education Services, 1989.
- Schiff, Harriet Sarnoff. *The Bereaved Parent*. New York: Penguin Books, 1977.

Domestic Violence

- Barnett, Ola W. and Alyce D. LaViolette. *It Could Happen to Anyone: Why Battered Women Stay*. Newbury Park, CA: Sage Publications, 1993.
- Buzawa, Eve S. And Carl G. Buzawa. *Domestic Violence: The Criminal Justice Response*. Newbury Park, CA: Sage Publications, Inc., 1990.
- Campbell, Jacqueline C., ed. *Assessing Dangerousness: Violence by Sexual Offenders, Batterers, and Child Abusers*. Thousand Oaks,

- CA: Sage Publications, 1994.
- Gelles, Richard and Donileen Loseke, eds. *Current Controversies on Family Violence*. Newbury Park, CA: Sage Publications, 1993.
- Gelles, Richard and Murray A. Straus. *Intimate Violence: The Causes and Consequences of Abuse in the American Family*. New York: Simon and Schuster, Inc., 1988.
- Island, David and Patrick Letellier. *Men Who Beat the Men Who Love Them: Battered Gay Men and Domestic Violence*. Binghamton, NY: The Hawthorne Press, Inc., 1991.
- Jaffe, Peter G., David A. Wolfe and Susan Wilson. *Children of Battered Women*. Newbury Park, CA: Sage Publications, 1990.
- Jones, Ann. *Next Time She'll Be Dead: Battering and How to Stop It*. Boston: Beacon Press, 1994.
- Kirkwood, Cathy. *Leaving Abusive Partners: From the Scars of Survival to the Wisdom for Change*. Newbury Park, CA: Sage Publications, 1993.
- Lobel, Kerry. *Naming the Violence: Speaking Out Against Lesbian Battering*. Seattle, WA: The Seal Press, 1986.
- McNulty, Faith. *The Burning Bed: The True Story of An Abused Wife*. New York: Avon Books, 1980.
- NiCarthy, Ginny. *Getting Free: A Handbook for Women in Abusive Relationships*. Seattle, WA: The Seal Press, 1984.
- _____. *The Ones Who Got Away: Women Who Left Abusing Partners*. Seattle, WA: The Seal Press, 1986.
- Renzetti, Claire M. *Violent Betrayal: Partner Abuse in Lesbian Relationships*. Newbury Park, CA: Sage Publications, 1992.
- Walker, Lenore E. *The Battered Woman Syndrome*. New York: Springer Publishing, 1984.
- _____. *Terrifying Love: Why Battered Women Kill and How Society Responds*. New York: Harper and Row, Publishers, 1989.

Rape and Sexual Assault

- Bohmer, Carol and Andrea Parrot. *Sexual Assault on Campus: The Problem and the Solution*. New York: Lexington Books, 1993.
- Braswell, Linda. *Quest for Respect: A Healing Guide for Survivors of Rape*. Ventura, CA: Pathfinder Publishing, 1989.
- Buchwald, Emilie, Pamela R. Fletcher and Martha Roth, eds.

- Transforming a Rape Culture*. Minneapolis, MN: Milkweed Editions, 1993.
- Estrich, Susan. *Real Rape*. Cambridge, MA: Harvard University Press, 1987.
- Fairstein, Linda. *Sexual Violence: Our War Against Rape*. New York: William Morrow and Company, Inc., 1993.
- Katz, Judy H. *No Fairy Godmothers, No Magic Wands: The Healing Process After Rape*. Saratoga, CA: R&E Publishers, 1984.
- Kelly, Liz. *Surviving Sexual Violence*. Minneapolis, MN: University of Minnesota Press, 1988.
- Koss, Mary P. and Mary R. Harvey. *The Rape Victim: Clinical and Community Interventions*. Newbury Park, CA: Sage Publications, 1991.
- Ledray, Linda E. *Recovering From Rape*. New York: Henry Holt and Company, 1986.
- Lee, Sharice A. *A Survivor's Guide: For Teenage Girls Surviving Sexual Abuse*. Thousand Oaks, CA: Sage Publications, 1995.
- Levy, Barrie, ed. *Dating Violence: Young Women in Danger*. Seattle, WA: The Seal Press, 1991.
- Russell, Diana E.H. *The Politics of Rape: The Victim's Perspective*. New York: Stein and Day, 1984.
- Sanday, Peggy Reeves. *Fraternity Gang Rape: Sex, Brotherhood and Privilege on Campus*. New York: New York Univ. Press, 1990.
- Senate Judiciary Committee. *The Response to Rape: Detours on the Road to Equal Justice*. Washington, D.C.: Senate Judiciary Committee, 1993.
- Vachss, Alice. *Sex Crimes: Ten Years on the Front Lines Prosecuting Rapists and Confronting Their Collaborators*. New York: Random House, 1993.
- Warshaw, Robin. *I Never Called It Rape*. New York: Harper and Row, 1988.

Male Sexual Abuse

- Bolton, Frank G., Larry A. Morris and Ana E. MacEachron. *Males at Risk: The Other Side of Child Sexual Abuse*. Newbury Park, CA: Sage Publications, 1989.
- Gonsiorek, John C., Walter H. Bera and Donald LeTourneau.

Male Sexual Abuse. Thousand Oaks, CA: Sage Publications, 1994.

Hunter, Mic, ed. *Abused Boys: The Neglected Victims of Sexual Abuse*. New York: Fawcett Columbine, 1990.

Lew, Mike. *Victims No Longer: Men Recovering from Incest and Other Child Sexual Abuse*. New York: Nevraumont Publishing, 1988.

Mendel, Matthew Parynik. *The Male Survivor: The Impact of Sexual Abuse*. Thousand Oaks, CA: Sage Publications, Inc., 1994.

Mezey, Gillian C. And Michael B. King, eds. *Male Victims of Sexual Assault*. New York: Oxford University Press, 1992.

Incest/Child Sexual Abuse

Armstrong, Louise. *Rocking the Cradle of Sexual Politics: What Happened When Women Said Incest*. New York: Addison Wesley Publishing Co., 1994.

Bass, Ellen and Laura Davis. *The Courage To Heal*. New York: HarperCollins Publishers, 1994.

Butler, Sandra. *Conspiracy of Silence: The Trauma of Incest*. Volcano, CA: Volcano Press, Inc., 1985.

Crowdson, John. *By Silence Betrayed: Sexual Abuse of Children in America*. Boston: Little, Brown and Company, 1988.

Gomez-Schwartz, Beverly, Jonathan M. Horowitz, and Albert Cardarelli. *Child Sexual Abuse*. Newbury Park, CA: Sage Publications, 1990.

Herman, Judith Lewis. *Father-Daughter Incest*. Cambridge, MA: Harvard University Press, 1981.

Russell, Diana. *The Secret Trauma: Incest in the Lives of Girls and Women*. New York: Basic Books, 1986.

Salter, Anna. *Transforming Trauma: A Guide to Understanding and Treating Adult Survivors of Child Sexual Abuse*. Thousand Oaks, CA: Sage Publications, 1995.

Terr, Lenore. *Unchained Memories: True Stories of Traumatic Memories, Lost and Found*. New York: Basic Books, 1994.

Wisechild, Louise. *The Obsidian Mirror: An Adult Healing from Incest*. Seattle, WA: The Seal Press, 1988.

Child Physical Abuse and Neglect

- Miller, Alice. *For Your Own Good: Hidden Cruelty in Child-Rearing and the Roots of Violence*. New York: Farrar Straus, 1983.
- _____. *Thou Shall Not Be Aware: Society's Betrayal of the Child*. New York: Penguin Books USA Inc., 1984.
- Sanford, Linda T. *Strong at the Broken Places: Overcoming the Trauma of Childhood Abuse*. New York: Avon Books, 1990.
- Shengold, Leonard, M.D. *Soul Murder: The Effects of Childhood Abuse and Deprivation*. New York: Fawcett Columbine, 1989.

Elder Abuse

- Breckman, Risa and Ronald D. Adelman. *Strategies for Helping Victims of Elder Mistreatment*. Newbury Park, CA: Sage Publications, 1988.
- Decalmer, Peter and Frank Glendenning. *The Mistreatment of Elderly People*. Newbury Park, CA: Sage Publications, 1993.

Hate Crimes

- Brenner, Claudia. *Eight Bullets: One Woman's Story of Surviving Anti-Gay Violence*. Ithaca, NY: Firebrand Books, 1995.
- Comstock, Gary David. *Violence Against Lesbians and Gay Men*. New York: Columbia University Press, 1991.
- Herek, Gregory, M. And Kevin T. Berrill. *Hate Crimes: Confronting Violence Against Lesbians and Gay Men*. Newbury Park, CA: Sage Publications, 1992.

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Victim Witness Program
District Attorney's Office
40 Thorndike Street
Cambridge, MA 02141
(617)494-4604

Ayer	Marlborough
Cambridge	Natick
Concord	Newton
Framingham	Somerville
Lowell	Waltham
Malden	Woburn

County

District Courts

Norfolk

Sandra Pimental, Director
Victim Witness Program
District Attorney's Office
P.O. Box 309
Dedham, MA 02026
(617)329-5440

Brookline
Dedham
Quincy
Stoughton
Wrentham

Plymouth

Michelle Mawn, Director
Victim Witness Program
District Attorney's Office
P.O. Box 1665
Brockton, MA 02403
(508)584-8120

Brockton
Hingham
Plymouth
Wareham

Suffolk

Janet Fine, Chief
Victim Witness Program
District Attorney's Office
New Courthouse, 6th Floor
Boston, MA 02108
(617)725-8653

Boston	East Boston
Brighton	Roxbury
Charlestown	South Boston
Dorchester	West Roxbury

Worcester

Anthony Pelligrini, Director
Victim Witness Program
District Attorney's Office
332 Main Street
Worcester, MA 01608
(508)792-0214

Clinton	Spencer
Fitchburg	Uxbridge
Gardner	Westborough
Leominster	Winchendon
Milford	Worcester

VICTIM RIGHTS GROUPS

Grassroots Organizations

Domestic Violence

Mass. Coalition of Battered Women Service Groups
14 Beacon Street, Suite 507
Boston, MA 02108
(617)248-0922

Domestic Violence Council
2 Park Plaza
Suite 600
Boston, MA 02116
no number available

Network for Battered Lesbians
Box 6011
Boston, MA 02114
(617)424-8611

Peace at Home
95 Berkeley Street, Suite 107
Boston, MA 02116
(617)482-9497

Sexual Assault

Mass. Coalition Against Sexual Assault
One Salem Square, c/o YWCA
Worcester, MA 01608
(508)754-1019

Survivor Connections, Inc.
c/o Frank Fitzpatrick
52 Lyndon Road
Cranston, RI 02905
(401)941-2548

Survivors For Justice
Box 441442
West Somerville, MA 02144
no number available

Victim Advocacy Network
P.O. Box 3148
Framingham, MA 01701
no number available

Homicide

Charlestown After Murder Prog.
49 Vine St., c/o St. Catherine's
Charlestown, MA 02129
(617)356-5331

Joey Fournier Victim Services
14 Beacon Street
Boston, MA 02118
(617)246-0066

**People of Color Against
Homicide**

591 Morton Street
Dorchester, MA 02124
no number available

Daniel A. Larson Foundation

c/o Nancy and Chuck Larson
28 Mary Lyon Drive
South Hadley, MA 01075
(413)533-6303

Parents of Murdered Children

Boston Chapter
P.O. Box 4527
Boston, MA 02101
(617)499-7998

**Save Our Sons and Daughters
(SOSAD)**

26 South Huntington Avenue
Boston, MA 02130
(617)739-1031

Incest/Child Sexual Abuse

**Mass. Society for the Prevention
of Cruelty to Children**

43 Mount Vernon Street
Boston, MA 02108
(617)227-2280

Heartlines, Inc.

P.O. Box 1086
Jamaica Plain, MA 02130
(617)524-6850

Drunk Driving

**Mothers Against Drunk Driving
(MADD)**

State Administrative Office
1661 Worcester Road
Framingham, MA 01701
(800)633-6233

MADD Berkshire County

Box 192
Dalton, MA 01226
(413)684-3133

MADD Bristol County

Box 403
Westport, MA 02790
(508)673-6233

MADD Cape Cod

3821 Route 28
Box B7
Marston Mills, MA 02648
(508)420-0200

MADD Hampden County
154 Grove Street
Chicopee, MA 01020
(413)592-9953

MADD Plymouth County
136 Wapping Road
Kingston, MA 02364
(617)585-1888

MADD Metrowest
Box 274
Southboro, MA 01772
(508)624-6233

MADD Worcester County
51 Union Street
Worcester, MA 01608
(508)831-9785

Violence Prevention

Citizens for Safety
294 Washington Street
Suite 749
Boston, MA 0 02108
(617)542-7712

**Mass. Citizens To Prevent
Handgun Violence**
70/72 Joy Street
Boston, 02114
(617)723-9867

VICTIM ASSISTANCE

Counseling and Crisis Programs for Victims

Victims: General

Victims of Violence Program*

Cambridge Hospital
1493 Cambridge Street
Cambridge, MA 02139
(617)498-1284

The Trauma Center*

227 Babcock Street
Brookline, MA 02146
(617)731-3200 x421

International Institute*

Victim Assistance Services
1493 Cambridge Street
Boston, MA 02115
(617)536-1081

Victims of Crime & Loss*

131 Rantoul Street
Beverly, MA 01915
(508)927-4506

Homicide/Bereavement

After Homicide Program*

Worcester Youth Guidance Center
275 Belmont Street
Worcester, MA 01609
(508)791-3261

Family Bereavement Program*

133 East Main Street
Marlborough, MA 01752
(508)481-8290

Homicide Bereavement*

Clinical and Support Options, Inc.
13 Prospect St., Box 1191
Greenfield, MA 01301
(413)774-7931

Living After Murder Program*

Roxbury Community Health Ctr.
435 Warren Street
Roxbury, MA 02119
(617)442-7400

Omega Support Services*

34 Heath Street
Somerville, MA 02145
(617)776-6369

Project REACH*

Center for Health & Human Svcs.
105 Williams Street
New Bedford, MA 02741
(508)996-3147

**denotes a program funded through the federal Victims of Crime Act of 1984*

Surviving After Murder Prog.*

Child Guidance Clinic
110 Maple Street
Springfield, MA 01105
(413)732-7419

The Trauma Center*

227 Babcock Street
Brookline, MA 02146
(617)731-3200

**Victims of Crime and Loss
Program (VOCAL)***

Health and Education Services
131 Rantoul Street
Beverly, MA 01915
(508)927-4506

Victims of Violence Program*

Cambridge Hospital
1493 Cambridge Street
Cambridge, MA 02139
(617)667-4645

Domestic Violence

Alternative House

P.O. Box 2100
Lowell, MA 01851
(508)454-1436

ARCH

Domestic Violence Program
P.O. Box 80632
Springfield, MA 01138
(413)733-7100

**Asian Shelter & Advocacy
Project**

P.O. Box 120108
Boston, MA 02112
(617)338-2350

Casa Myrna Vasquez*

P.O. Box 18019
Boston, MA 02118
(617)521-0100

**Child Witness to Violence
Project***

c/o Boston City Hospital
818 Harrison Ave., MAT5
Boston, MA 02118
(617)534-4244

Community Advocacy Project*

CCHERS
c/o Northeastern University
360 Huntington Avenue, 398CP
Boston, MA 02115
(617)373-4591

**Community Counseling of
Blackstone Valley***

Domestic Violence Program
10 Asylum Street
Milford, MA 01757
(508)473-6723

**denotes a program funded through the federal Victims of Crime Act of 1984*

Daybreak
P.O. Box 3093
Worcester, MA 01613
(508)755-9030

**Domestic Violence Ended
(DOVE)***
P.O. Box 287
Quincy, MA 02269
(617)471-1234

Elizabeth Stone House
P.O. Box 59
Jamaica Plain, MA 02130
(617)522-3417

F.I.N.E.X. House*
P.O. Box 1154
Jamaica Plain, MA 02130
(617)288-1054

**Fenway Community Health
Center***
Victim Recovery Program
7 Haviland Street
Boston, MA 02115
(617)267-0900

Mary Foreman House
P.O. Box 49
Dorchester, MA 02125
(617)521-0100

Harbor Me*
Battered Women's Project
P.O. Box 505634
Chelsea, MA 02150
(617)889-2111

**Help for Abused Women and
Their Children***
27 Congress Street
Salem, MA 01970
(508)744-6841

Independence House*
Battered Women's Advocacy
160 Bassett Lane
Hyannis, MA 02601
(800)439-6507

**International Institute of
Boston***
Victim Assistance Services
287 Commonwealth Avenue
Boston, MA 02115
(617)536-1081

N.E.L.C.W.I.T.*
10 Park Street
Greenfield, MA 01301
(413)772-0806

Necessities/Necesidades
16 Armory Street
Northampton, MA 01060
(413)586-5066

Network for Battered Lesbians
P.O. Box 6011
Boston, MA 02114
(617)424-8611

New Bedford's Women's Center
252 County Street
New Bedford, MA 02740
(508)992-4222

**denotes a program funded through the federal Victims of Crime Act of 1984*

New Beginnings

P.O. Box 1835
Westfield, MA 01086
(413)562-1920

New Hope, Inc.

P.O. Box 4100
Attleboro, MA 02703
(800)323-4673

Our Sister's Place

P.O. Box 4236
Fall River, MA 02723
(508)677-0224

Renewal House

P.O. Box 919
Roxbury, MA 02120
(617)566-6881

Respond

P.O. Box 555
Somerville, MA 02143
(617)623-5900

Safe Place Inc.

P.O. Box 3231
Nantucket, MA 02584
(508)228-2111

**Services Against Family
Violence**

P.O. Box 164
Malden, MA 02148
(617)324-2221

South Shore Women's Center*

225 Water Street, Suite 412
Plymouth, MA 02360
(508)746-2664

Transition House

Box 530, Harvard Station
Cambridge, MA 02138
(617)661-7203

The Visitation Center*

180 Belmont Street
Brockton, MA 02401
(508)583-6498

**Waltham Battered Women's
Support Committee**

P.O. Box 24
Waltham, MA 02254
(617)899-8676

Womanshelter/Compañeras

P.O. Box 6099
Holyoke, MA 01041
(413)536-1628

Womansplace Crisis Center*

P.O. Box 4206
Brockton, MA 02403
(508)588-2041

Women's Crisis Center

24 Pleasant Street
Newburyport, MA 01950
(508)465-2155

Women's Protective Services*

300 Howard Street
Framingham, MA 01701
(508)820-0834

Women's Resource Center

454 North Canal Street
Lawrence, MA 01842
(508)685-2480

**denotes a program funded through the federal Victims of Crime Act of 1984*

Rape and Sexual Assault

ARCH Rape Crisis Program

P.O. Box 80632
Springfield, MA 01138
(413)733-7100

Beth Israel Hospital

Rape Crisis Service
330 Brookline Avenue
Boston, MA 02115
(617)667-4645

Blackstone Valley Rape Crisis*

P.O. Box 215
Milford, MA 01757
(508)478-2992

Boston Area Rape Crisis Ctr.*

99 Bishop Allen Drive
Cambridge, MA 02139
(617)492-RAPE

Cape Cod Rape Crisis Center

160 Bassett Lane
Hyannis, MA 02601
(800)439-6507

Everywoman's Center

U-Mass Nelson House
513 East Pleasant
Amherst, MA 01003
(413)545-0883

Latinas Against Sexual Assault

454 North Canal Street
Lawrence, MA 01842
(508)685-2480

Massachusetts General Hospital

Rape Emergency Unit, 55 Fruit St.
Boston, MA 02114
(617)726-2000

Marlborough Rape Crisis Center

133 East Main Street
Marlborough, MA 01757
(508)485-RAPE

N.E.L.C.W.I.T.

Rape Crisis Program
10 Park Street
Greenfield, MA 01301
(413)772-0806

New Bedford Women's Center*

252 County Street
New Bedford, MA 02740
(508)996-3343

New Hope Sexual Assault Prog.

P.O. Box 4100
Attleboro, MA 02703
(508)824-4757

North Shore Rape Crisis Center

131 Rantoul Street
Beverly, MA 01915
(800)922-8772

Pediatric Sexual Abuse Prog.*

Saint Anne's Hospital
795 Middle Street
Fall River, MA 02721
(508)674-5741

**denotes a program funded through the federal Victims of Crime Act of 1984*

Preventive Service Treatment*

129 King Street
Northampton, MA 01060
(413)586-8680

Rape Crisis Center of Berkshire County

18 Charles Street
Pittsfield, MA 01201
(413)442-6708

Rape Crisis Program of Central Massachusetts*

100 Grove Street
Worcester, MA 01605
(508)799-5700

Rape Crisis Service of Lowell*

70 Industrial Avenue East
Lowell, MA 01854
(800)542-5212

Sexual Abuse Treatment Svs.*

Health and Education Services
298 Washington Street
Gloucester, MA 01930
(508)283-0296

Women's Protective Services*

South Middlesex Opportunity
Council
300 Howard Street
Framingham, MA 01701
(508)820-0834

Women's Resource Center

26 White Street
Haverhill, MA 01830
(508)373-4041

Women's Resources

P.O. Box 2503
Fitchburg, MA 01420
(508)342-9355

Women's Support Services*

P.O. Box 369
Vineyard Haven, MA 02568
(508)696-7233

Women's Services Center of Western Massachusetts*

146 First Street
Pittsfield, MA 01201
(413)443-0089

Child Abuse

AWAKE Program*

Children's Hospital
300 Longwood Ave.
I.C. Smith Building
Boston, MA 02115
(617)355-7979

Child Witness to Violence Program*

Boston City Hospital
818 Harrison Avenue
Boston, MA 02118
(617)534-4244

**denotes a program funded through the federal Victims of Crime Act of 1984*

**Pediatric Sexual Abuse
Program***

Saint Anne's Hospital
795 Middle Street
Fall River, MA 02721
(508)674-5741

The Visitation Center*

Brockton Family and Community
Resources
180 Belmont Street
Brockton, MA 02401
(508)583-6498

Hate Crimes

Victim Recovery Program*

Fenway Community Health Center
7 Haviland Street
Boston, MA 02115
(617)267-0900

International Institute*

Victim Assistance Services
287 Commonwealth Avenue
Boston, MA 02115
(617)536-1081

**denotes a program funded through the federal Victims of Crime Act of 1984*

PRISON FACILITIES

Department of Correction

Bay State Correctional Center

28 Clark Street
P.O. Box 73
Norfolk, MA 02056
(508)668-1687

level four security designation

Boston State Pre-Release Center

P.O. Box 678
Dorchester Center Station
Dorchester, MA 02124
(617)436-3122

level two security designation

Bridgewater State Hospital

20 Administration Road
Bridgewater, MA 02324
(508)697-8161

level four security designation

Cedar Junction/Walpole

Route 1A
P.O.Box 100
South Walpole, MA 02071
(508)668-2100

level six security designation

Community Residential Svs.

180 Morton St., 2nd Floor
Jamaica Plain, MA 02130
(617)727-9496

level one security designation

Hodder House Pre-Release Unit

Merchants Road
P.O. Box 9007
Framingham, MA 01701
(617)727-5056 x178

level two security designation

Lancaster Pre-Release Ctr.

P.O. Box 123
Old Common Road
Lancaster, MA 01523
(508)368-8388

level two security designation

Longwood Treatment Ctr.

125 South Huntington Ave.
P.O. Box 1706
Jamaica Plain, MA 02130
(617)727-0280

level three security designation

Massachusetts Boot Camp

2 Administration Road
Bridgewater, MA 02324
(508)697-4404

level three security designation

MCI Concord

965 Elm Street
P.O. Box 9106
Concord, MA 01742
(508)369-3220

level four security designation

MCI Framingham
99 Loring Road
P.O. Box 9007
Framingham, MA 01701
(508)875-5258
level four security designation

MCI Lancaster
P.O. Box 123
Old Common Road
Lancaster, MA 01523
(508)368-8388
level three security designation

MCI Norfolk
2 Clark Street
P.O. Box 43
Norfolk, MA 02056
(508)668-0800
level four security designation

MCI Plymouth
Box 207
Myles Standish State Forest
South Carver, MA 02366
(508)291-2441
level three security designation

MCI Shirley
Harvard Road
P.O. Box 1218
Shirley, MA 01464
(508)425-4341
level four security designation

North Central Correctional Institution
500 Colony Road
Garnder, MA 01440
(508)632-2000
level four security designation

Northeastern Correctional Center
Barretts Mill Road, Box 1069
West Concord, MA 01742
(508)369-4120
level three security designation

Old Colony Correctional Center
One Administration Road
Bridgewater, MA 02324
(508)697-3360
level five security designation

Park Drive Pre-Release Center
107 Park Drive
Boston, MA 02215
(617)727-2275
level two security designation

Pondville Correctional Center
P.O. Box 146
Norfolk, MA 02056
(508)668-0808
level three security designation

Southeastern Correctional Center
12 Administration Road
Bridgewater, MA 02324
(508)697-3327
level four security designation

South Middlesex Correctional Center
135 Western Avenue, Box 850
Framingham, MA 01701
(508)872-0281
level three security designation

COUNTY FACILITIES

Houses of Correction

Barnstable House of Correction
P.O. Box 397
Barnstable, MA 02630
(508)362-3252

Berkshire House of Correction
264 Second Street
Pittsfield, MA 01201
(413)443-7220

Bristol House of Correction
400 Faunce Corner Road
North Dartmouth, MA 02747
(508)995-6400

Billerica House of Correction
P.O. Box 565
Billerica, MA 01821
(508)667-1711

Dukes House of Correction
P.O. Box 252
Edgartown, MA 02539
(508)627-5173

Franklin House of Correction
160 Elm Street
Greenfield, MA 01301
(413)774-4014

Hampden House of Correction
627 Randell Road
Ludlow, MA 01056
(413)547-8000

Hampshire House of Correction
P.O. Box 7000
North Hampton, MA 01061
(413)584-5911

Essex House of Correction
20 Manning Avenue
Middleton, MA 01949
(508)750-1900

Norfolk House of Correction
200 West Street, P.O. Box 149
Dedham, MA 02027
(617)329-3705

Plymouth House of Correction
26 Long Pond Road
Plymouth, MA 02360
(508)830-6200

Suffolk House of Correction
20 Bradston Street
Boston, MA 02118
(617)635-1000

Worcester House of Correction
5 Paul X. Tivnan Drive
West Boylston, MA 01583
(508)854-1800

REGIONAL CONTACTS

Department of Youth Services

Central Region

David Strong
DYS Central Area Director
180 Beaman Street
West Boylston, MA 01583
(508)835-2336

Southeastern Region

Alan Collete
DYS Southeastern Area Director
Forestry Camp, Off Route 6A
Brewster, MA 02631
(617)727-3641

Metro-Boston Region

Roberto Rodriquez
DYS Metro-Boston Area Director
27-43 Wormwood Street
Boston, MA 02210
(617)727-7575

Western Region

George Ashwell
DYS Western Area Director
280 Tinkham Road
Springfield, MA 01129
(413)783-0781

Northeastern Region

John Paladino
DYS Northeastern Area Director
187 Ballardvale Street, Box 807
Wilmington, MA 01887
(508)657-8261

DYS Central Office

Larry Feeney
General Counsel
27-43 Wormwood Street
Boston, MA 02210
(617)727-7575

VICTIM RESOURCES

Federal Agencies and National Organizations

Victims: General

**Center for the Study of Crime
Victims' Rights**

c/o University of New Haven
300 Orange Avenue
West Haven, CT 06516
(203)932-7041

**Clearinghouse on Child Abuse &
Neglect Information**

P.O. Box 1182
Washington, DC 20013
(800)394-3366

**National Association of Crime
Victim Compensation Boards**

P.O. Box 16003
Alexandria, VA 22302
(703)370-2996

**National Crime Prevention
Council**

1700 K Street, N.W., 2nd Floor
Washington, D.C. 20006
(202)466-NCPC

**National Criminal Justice
Reference Service**

P.O. Box 6000
Rockville, MD 20849-6000
(800)732-3277

**National Crime Victims' Research
and Treatment Center**

171 Ashley Avenue
Medical Univ. of South Carolina
Charleston, SC 29425
(803)792-2945

**National Organization for Victim
Assistance**

1757 Park Road, N.W.
Washington, D.C. 20010
(202)232-6682

National Victim Center

2111 Wilson Boulevard, Suite 300
Arlington, VA 22201
(703)276-2880
(800)FYI-CALL

National Victims Resource Center

Box 6000
1600 Research Boulevard.
Rockville, MD 20849-6000
(800)627-NVRC

Office for Victims of Crime

U.S. Department of Justice
633 Indiana Avenue, Room 1342
Washington, D.C. 20531
(202)307-5983

Office of Violence Against Women
U.S. Department of Justice
10th and Constitution Ave., NW
Washington, D.C 20010
(202)616-8894

Spiritual Dimensions in Victim Services
P.O. Box 6736
Denver, CO 80106
(303)333-8810

Security on Campus, Inc.
215 West Church Road
Suite 200
King of Prussia, PA 19406
(610)768-9330

Victims' Assistance and Legal Organization (VALOR)
P.O. Box 862
McLean, VA 22101
(703)538-6898

Adult Survivors of Incest

Incest Survivors Resource Network International
P.O. Box 7375
Las Cruces, NM 88006-7375
(505)521-4260

Survivors of Incest Anonymous
World Service Office
P.O. Box 21817
Baltimore, MD 21222
no number available

Child Abuse, Neglect and Abduction

Center for Child Protection and Family Support
714 G Street, S.E.
Washington, D.C. 20003
(202)544-3144

Child Welfare League of America
440 First Street, N.W.,
Suite 310
Washington, D.C. 20001
(202)638-2952

Child Find of America, Inc.
P.O. Box 277
New Paltz, NY 12561
(914)255-1848
(800)I-AM-LOST

Clearinghouse on Child Abuse & Neglect Information
P.O. Box 1182
Washington, DC 20013
(800)394-3366

ChildHelp USA
6463 Independence Avenue
Woodland Hills, CA 91367
(818)347-7280
(800)4-A-CHILD

American Professional Society on the Abuse of Children
407 S. Dearborne Street, Suite 1300
Chicago, IL 60605
(312)554-0166

Children's Defense Fund
25 E Street, NW
Washington, D.C. 20001
(202)628-8787

**Kempe Center for the Prevention
and Treatment of Child Abuse &
Neglect**
1205 Oneida Street
Denver, CO 80220
(303)321-3963

**National Center for Prosecution of
Child Abuse**
99 Canal Center Plaza, Suite 510
Alexandria, VA 22314
(703)739-0321

**National Committee for
Prevention of Child Abuse**
332 S. Michigan Avenue, Suite 1600
Chicago, IL 60604
(312)663-3520

**National Center for Missing &
Exploited Children**
2101 Wilson Blvd., Suite 550
Arlington, VA 22201
(703)235-3900

National Child Abuse Coalition
733 15th Street, NW
Suite 938
Washington, D.C. 20005
(202)347-3666

Domestic Violence

**The National Council on Child
Abuse and Family Violence**
1155 Connecticut Ave., N.W.
Washington, D.C. 20036
(800)222-2000

Family Violence Clearinghouse
P.O. Box 1182
Washington, DC 20013
(800)394-3366

**National Coalition Against
Domestic Violence**
1511 K Street NW, Rm. 409
Washington, D.C. 20005
(202)638-6388

Family Violence Prevention Fund
383 Rhode Island Street, Suite 304
San Francisco, CA 94103
(415)252-8900

Drunk Driving

**Alliance Against Intoxicated
Motorists**
870 East Higgins Road, Suite 131
Schaumburg, IL 60173
(708)240-0027

National Families in Action
2296 Henderson Mill Road
Suite 300
Atlanta, GA 30345
(770)934-6364

Mothers Against Drunk Driving
P.O. Box 541688
Dallas, TX 75354
(214)744-MADD
(800)438-6233

RID-USA (Remove Intoxicated Drivers)
P.O. Box 520
Schenectady, NY 12301
(518)393-4357

Elder Abuse

American Association for Retired Persons (AARP)
Elder Abuse Project
601 E Street N.W.
Washington, D.C. 20049
(202)434-2277

National Aging Resource Center on Elder Abuse
c/o APWA
810 1st Street N.E., Suite 500
Washington, D.C. 20002
(202)682-0100

Hate Crimes

National Gay/Lesbian Task Force
2320 17th Street, N.W.
Washington, D.C. 20009
(202)332-6483

Human Rights Resource Center
30 N. San Pedro Road, Suite 140
San Rafael, CA 94903
(415)453-0404

Rape and Sexual Assault

National Assault Prevention Center
P.O. Box 2005
Columbus, OH 43202
(614)291-2540

National Coalition Against Sexual Assault
912 North 2nd Street
Harrisburg, PA 17102-3119
(717)232-7460

National Coalition Against Pornography
800 Compton Road, Suite 9224
Cincinnati, OH 45231
(513)521-6227

National Center for Women Policy Studies
2000 P Street, NW, Suite 508
Washington, D.C. 20036
(202)872-1770

Homicide

Children of Murdered Parents

P.O. Box 9317
Whittier, CA 90608
(213)699-8427

Justice for Surviving Victims, Inc.

P.O. Box 1503
Salida, CO 81291
no number available

Committee to Halt Useless College Killings (C.H.U.C.K.)

P.O. Box 188
Sayville, NY 11782
(516)567-1130

Parents of Murdered Children

100 E 8th Street, Suite B-41
Cincinnati, OH 452020
(513)721-5683

Violence Prevention

Handgun Control, Inc.

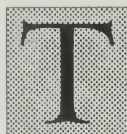
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In the Aftermath of Crime



his book, *In the Aftermath of Crime: A Guide to Victim Rights and Services in Massachusetts* was developed as a project of the Massachusetts Office for Victim Assistance (MOVA) and the Victim and Witness Assistance Board (the Board). It is dedicated to the many crime victims and their family members who have suffered the effects of violence and injustice and demanded that society treat them with respect and compassion.

The Guide was researched and written by Shelagh Lafferty, Policy Analyst at MOVA. Heidi Urich, Executive Director of MOVA, served as chief editor to the Guide. Other MOVA staff members also played important parts in completing this project: Cheryl Watson and Marilee Kenney Hunt offered editorial comments on the content of the Guide; David Schrag, Alyssa Kazin and Paula Almeida helped with production; and Tara Davis and interns Terri Arpino, Maria Pita and Melanie Turner provided administrative support.

With the leadership of Attorney General Scott Harshbarger, the Victim and Witness Assistance Board has been enormously supportive and committed to the idea of producing a comprehensive resource book for crime victims. The other Board members are District Attorney Gerry Downing, Mary Ellen Doyle, Deborah Hall Grant and District Attorney Tom Reilly.

Although MOVA and the Board take full responsibility for the content of the Guide, its pages reflect the contributions of many individuals, including crime victims and survivors,

victim service providers, victim witness advocates and other criminal justice professionals.

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NOTES

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